

**MISSOURI**  
**AIR CONSERVATION COMMISSION**  
**BRIEFING DOCUMENT**

**July 21, 2005**



**MISSOURI DEPARTMENT  
OF NATURAL RESOURCES**

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**Air and Land Protection Division**

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**Air Pollution Control Program**

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# NOTICE OF OPEN MEETING

Persons with disabilities requiring special services or accommodations to attend the meeting can make arrangements by calling the Air Pollution Control Program directly at (573) 751-4817, or by calling the division's toll-free number at 1-800-361-4827. Hearing impaired persons may contact the program through Relay Missouri, 1-800-735-2966. Please visit our web site at [www.dnr.mo.gov](http://www.dnr.mo.gov).

**AGENDA**  
**Missouri Air Conservation Commission Meeting**  
**Holiday Inn**  
**1-800-465-4329**  
**Salon D**  
**2781 North Westwood Boulevard**  
**Poplar Bluff, MO 63901**  
**July 21, 2005**  
**9:00 a.m.**

	<b>Page #</b>	
<b>A. Call to Order</b>		Mike Foresman
<b>B. Minutes from June 30, 2005</b> (Approval Requested)	<b>1</b>	<b>Mike Foresman</b>
<b>C. Reports - (discussion)</b>		
1. Complaint Report (Not available at time of printing)		Steve Feeler
2. Settlement Report	13	Steve Feeler
3. Permit Reports	23	Kyra Moore
4. Operations Report	43	Jim Kavanaugh
5. Director's Report		Leanne Tippet Mosby

**D. Unfinished Business**

None.

**E. Public Hearing**

[10 CSR 10-1.030 \(new rule\) Air Conservation  
Commission Appeals and Requests for Hearings](#)

49 Paul Myers

This proposed rule is a product of the Commissioner's Core Workgroup and contains all procedural regulations for all contested cases heard by the commission or assigned to a hearing officer by the commission. The Commissioner's Core Workgroup was formed to establish uniform policies and procedures to be used by the state's environmental commissions for conducting business on contested cases.

Annual Budget/Fiscal Report

61 Carolyn Kliethermes

Air Pollution Control Program Administration's presentation on the projection of revenues and expenditures.

[10 CSR 10-6.110 \(amendment\) Submission of Emission Data,  
Emission Fees and Process Information](#)

79 Ron Jeffries

This proposed amendment will establish the emission fee for Missouri facilities as required annually. The air emission fee for calendar year 2005 is proposed to be increased from \$33.00 to \$35.50 per ton of regulated air pollutant. Also, this proposed amendment will change the fee payment and Emissions Inventory Questionnaire submission date from April 1 to June 1 each year for United States Department of Labor Standard Industrial Classification 4911 Electric Services.

**F. Recommended for Adoption and Actions to be Voted on**

[Missouri State Implementation Plan—Update to Kansas City  
Maintenance Plan for Control of Ozone](#)

95 Tiffany Campbell

This proposed update to the 2002 Kansas City Maintenance Plan for Control of Ozone incorporates references to the 8-hour National Ambient Air Quality Standards and associated control triggers. Information

regarding historical background and monitoring data/locations has also been updated. This revision will be in place until a new 8-hour ozone maintenance plan can be developed to meet the U.S. EPA June 15, 2007, deadline.

[Missouri State Implementation Plan—Doe Run Herculaneum, Modification to Consent Judgement](#)

149 John Rustige

This state implementation plan revision will modify the Doe Run Herculaneum smelter Consent Judgement to allow Doe Run to use spun-bond pleated bags in baghouses to meet the 0.022 grain per dry standard cubic foot performance standard as requested. Doe Run will be required to conduct testing to demonstrate proper performance.

[10 CSR 10-2.390 \(amendment\) Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws](#)

155 Ron Jeffries

This proposed amendment will amend the state Kansas City transportation conformity rule to bring it into compliance with the recently amended federal transportation conformity rule.

[10 CSR 10-5.480 \(amendment\) Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws](#)

219 Ron Jeffries

This proposed amendment will amend the state St. Louis transportation conformity rule to bring it into compliance with the recently amended federal transportation conformity rule.

**G. New Business**

Attorney General's Office Referrals (Approval Requested)

Steve Feeler

[Mr. Ron Sells](#)  
[Millennium Wrecking, Incorporated](#)

309

313

Necessity Findings (Approval Requested)

Jim Kavanaugh

10 CSR 10-5.510 (amendment) Control of Emissions of  
Nitrogen Oxides

10 CSR 10-6.060 (amendment) Construction Permits Required

10 CSR 10-6.100 (amendment) Alternate Emission Limits

**H. Appeals and Variance Requests**

None.

**I. Open Session**

This segment of the meeting affords citizens an opportunity to voice concerns to the commission on air quality issues. Please be advised, comments on specific rulemakings need to be provided as testimony, under oath, during the formal process of the public hearing for that rulemaking.

**J. Future Meeting Dates**

**August 25, 2005 – Jefferson City**

Governor Office Building

Room 450

200 Madison Street

Jefferson City, MO 65101

**September 29, 2005 – Kansas City**

Radisson Hotel & Suites

1-800-333-3333

Salon A

1301 Wyandotte

Kansas City, MO 64105

**October 27, 2005 – Jefferson City**

Governor Office Building

Room 450

200 Madison Street

Jefferson City, MO 65101

**December 8, 2005 – Springfield**  
University Plaza Hotel  
1-417-864-7333  
Colorado Room  
333 John Q. Hammons Parkway  
Springfield, MO 65806

**K. Discussion of Pending Litigation and Legal Matters**

Tim Duggan

(This portion of the meeting may be closed, pursuant to  
Section 610.021 (1), RSMo, after a vote by the  
Commission.)

**L. Meeting Adjournment**

Mike Foresman

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**MINUTES**  
**MISSOURI AIR CONSERVATION COMMISSION**  
**Governors Office Building**  
**Room 450**  
**200 Madison Street**  
**Jefferson City, MO 65101**  
**June 30, 2005**  
**9:00 a.m.**

**Commissioners Present**

Jack C. Baker, Member  
Mark A. Fohey, Member  
Michael Foresman, Chairman  
Mark S. Garnett, Member  
Kevin L. Rosenbohm, Member  
Dennis Voisey, Member

**Staff Members Present**

Rick Campbell, Operations Section, Air Pollution Control Program (APCP)  
Tiffany Campbell, Operations Section, APCP  
Erin Duggan, Permits Section, APCP  
Tim Duggan, Attorney General's Office (AGO)  
Steve Feeler, Compliance/Enforcement Section Chief, APCP  
David Gilmore, Commission Secretary, APCP  
Wayne Graf, Operations Section, APCP  
Ron Jeffries, Operations Section, APCP  
Jim Kavanaugh, Operations Section Chief, APCP  
Sarah McMichael, Public Information Specialist, APCP  
Kyra Moore, Permits Section Chief, APCP  
Nancy Morgan, St. Louis Urban Outreach Office  
Gus Ralston, Outreach and Assistance Center  
Omer Roberts, Environmental Assistance Office  
John Rustige, Operations Section, APCP  
Missy Seeligman, Program Secretary, APCP  
Leanne Tippet Mosby, Director, APCP  
Bruce Volner, Operations Section, APCP

**Others Present by Attendance Record**

Amy Algae-Eakin, Environmental Protection Agency (EPA) Region VII  
Karl Barke, Springfield Air Quality Control  
Kathrina Donegan, St. Louis County, Air Pollution Control  
Jess Garnett  
Garrett Hawkins, Director of National Affairs, Missouri Farm Bureau  
Jon Knodel, EPA Region VII  
Patrick Murphy, The Doe Run Company



Robert Patrick, EPA

Kevin Perry, REGFORM

Norb Plassmeyer, Associated Industries of Missouri

Steve Rudloff, Missouri Limestone Producers Association

Chris Schreiber, Schreiber Engineering, LLC

David Shanks, Boeing

Steven Whitworth, Ameren Services

**A. Call to Order**

Chairman Mike Foresman called the June 30, 2005, meeting of the Missouri Air Conservation Commission to order. Chairman Foresman noted the following commissioners were present: Jack Baker, Mark Fohey, Mike Foresman, Mark Garnett, Dennis Voisey and Kevin Rosenbohm.

**B. Minutes, June 30, 2005, Meeting**

Commissioner Mark Fohey moved to approve the minutes as written. Commissioner Mark Garnett seconded and all commissioners voted to approve the minutes.

**C. Reports - The following referenced reports are in the June 30, 2005, Missouri Air Conservation Commission Briefing Document.**

**1) COMPLIANCE/ENFORCEMENT**

Steve Feeler referred the commission to the Complaint Report beginning on Page 15. The department received 156 complaints during the month of May. Mr. Feeler explained that the majority of those complaints were odor and open burning complaints. Premium Standard Farms (PSF) and the Renewable Environmental Solutions (RES) facility in Carthage received 57 of the 77 odor complaints. The program is to perform summer inspections on PSF facilities. Brian Newby will be spending a couple of weeks at the PSF facilities in the near future. Hopefully it will give the program more information related to the odor issue. At the urging of the Attorney General's Office, RES has submitted a plan for additional odor control. RES is presently in the process of implementing the odor control plan. The odor has improved at RES since they have installed their thermal oxidizer. The program expects to see continued improvement in the odors from the Carthage industrial bottoms area.

The program is continuing its efforts to inform the public and industry by sending out a lot of information about open burning. The program is assembling a workgroup to look at changing some of the open burning rules. The first meeting is set for July 14, 2005.

Chairman Mike Foresman commented that there are still a significant amount of odor complaints.

Mr. Feeler commented that he visited the RES facility in early June and did observe some transient odors. It is a tough problem for RES to fix, but they are continuing to work on it.

Chairman Foresman commented that PSF has had a significant number of odor complaints again.

Mr. Feeler replied that Chairman Foresman was correct. There were 30 PSF complaints during the month of May. The program does not investigate every complaint, but it does make investigations. Occasionally the program does find a notice of excess emissions. PSF continues to make improvements too and the program will keep working on it.

Chairman Foresman inquired if it would be possible to see if Robert Brundage could make a presentation at the August meeting. It would be helpful for the commission to see what PSF is doing on their program for odor reduction.

Mr. Feeler replied that he was sure Mr. Brundage would be amenable to a presentation.

The Settlement Report starts on Page 53 and lists those cases in which the program has negotiated a settlement agreement. Mr. Feeler explained that Pages 57 through 60 list those cases which the program is trying to resolve and Page 61 are the cases which have been referred to the AGO for legal action.

## **2) PERMITS**

Kyra Moore referred the commission to the Permit Reports beginning on Page 63. In the month of May, the program received 65 construction permit projects and 24 operating permit projects. The Permit Applications Completed Report begins on Page 74. In May, the program completed 71 construction permit projects and 22 operating permit projects.

Ms. Moore referred the commission to the Operating Permit Progress Report beginning on Page 86. Three intermediate operating permits are on public notice: Fasco Industries in Cassville; MWT Bulk Services in Kansas City; and Bethany Municipal Power Plant.

The program also has three Part 70 Operating Permits on public notice: Poplar Bluff Compressor Station; Superior Home Products in Wentzville; 3M Nevada. 3M Nevada is the facility that the program worked with EPA on to develop flexible construction and operating permits, which allow them to make certain

changes without having to obtain a permit. Once the operating permit is issued, this project will be completed.

The program held a public hearing on May 26, 2005 for Doe Run – Herculaneum. Approximately 20 people attended the public hearing, including program staff. Four people gave oral testimony on the permit. In addition, the program received extensive written comments on the permit from the Washington University Environmental Law Clinic. The program is currently responding to those comments in writing. Once all comments have been responded to, then the program will proceed with the issuance of the permit.

The program received the Kansas City Power and Light (KCPL) revised application for their Iatan facility in May. The program is working with KCPL to complete the review of their application.

The program is going through an appeal process on the permit that was issued to City Utilities of Springfield in December of 2004. Depositions are currently being scheduled for that appeal. Hopefully in the next month or so, the depositions will be completed so the hearing can move forward.

### **3) OPERATIONS**

Mr. Kavanaugh referred the commission to the three Operations reports beginning on Page 87 with the Rules and SIP Agenda followed by the Rules in Progress Schedule on Page 343 and the State Air Quality Plans Status Report on Page 347.

Mr. Kavanaugh updated the commission on the Clean Air Interstate Rule (CAIR), and the Clean Air Mercury Rule (CAMR). These two rules affect Electric Generating Units (EGUs). The state of Missouri is one of 28 states, along with the District of Columbia, required to take action and promulgate rules to address the two federal actions. Over the next few weeks, the program plans to kick off a stakeholder workgroup to begin development of those rules. Some discussion has already taken place with many of the major utilities in Missouri. The program has until September of 2006 to respond to the CAIR rule and until November 2006 for the CAMR rule.

Regarding another issue, on June 15, 2005, the EPA finalized amendments to the Regional Haze rule. Those amendments apply to the provisions of the Regional Haze rule that require emission controls known as Best Available Retrofit Technology (BART) for industrial facilities emitting air pollutants that reduce visibility by causing or contributing to regional haze. BART applies to older facilities built between 1962 and 1977, which have a potential to emit more than 250 tons of visibility impairing pollution. EPA identified some 26 categories of possible sources such as utilities, industrial boilers and large industrial plants (i.e. pulp mills, refineries and smelters). This rule provides guidance on how to make

the determination of which of those facilities must install controls and the type of controls needed. If the state adopts the CAIR cap and trade program for SO<sub>2</sub> and NO<sub>x</sub>, then those CAIR controls on EGUs can be substituted for BART. The program has identified about seven possible sources that are not utility sources in the state. The program will next have to make a determination whether those sources fit the BART category or not.

Mr. Kavanaugh updated the commission on the St. Louis State Implementation Plan (SIP) development process for ozone and PM<sub>2.5</sub>. The program has two workgroups, modeling and a control strategy workgroup. The modeling workgroup has been working closely with a contractor and the State of Illinois. There are three parts to this process. The first part is developing a meteorological model, which has been done. The meteorological model has been completed for three summer episodes and one winter episode. The second element of the modeling effort is processing emission inventory. Since this inventory includes the surrounding states and not just Missouri, it is a sizeable task. The program is combining inventory that was done by the Central States Air Regional planning body and the Midwest regional planning group. The third part of the modeling process is the photochemical modeling. Once the inventory and the meteorological data is complete, the program can begin running the models to analyze and evaluate what type of controls might be necessary.

The control strategy workgroup met last on June 7, 2005, and discussed the process by which control strategies will be selected. An automobile inspection and maintenance summit has been planned for July 22, 2005 in St. Louis to discuss the vision for this program once the current contract expires. There was a lot of publicity that said when states implement CAIR rules, areas like St. Louis will not have to do anything further. Preliminary results indicate that does not appear to be the case. It is likely that some additional local controls will be necessary in St. Louis to attain the 8-hour ozone standard. Again, this is very preliminary. The program will have to wait until it has more complete modeling to be certain.

Chairman Foresman inquired as to who were some of the members of the control strategy workgroup.

Mr. Kavanaugh replied that some of those in the control strategy workgroup are David Shanks from Boeing, Ken Hagg from URS, Ken Anderson from AmerenUE, and Mike Alesandrini.

Chairman Foresman inquired if anyone from the Automobile Association was in the workgroup.

Leanne Tippet Mosby stated that Mike Wright with AAA has attended some of the meetings.

Chairman Foresman commented that the program should invite them.

Ms. Tippet Mosby stated the program will be sure to invite Mr. Wright to the I/M Summit.

Kansas City and St. Louis have had a number of 8-hour ozone exceedances in the last 10 days. Kansas City has had 13 total and St. Louis has had 41 total. Once this data is quality assured, it appears the West Alton monitor will be in violation of the 8-hour standard. The 1-hour ozone standard was revoked as of June 15, 2005. One 1-hour exceedance has been monitored in Kansas City, Kansas and one exceedance in East St. Louis.

#### **4) DIRECTOR'S REPORT**

##### **a) I/M Summit**

Leanne Tippet Mosby addressed the commission and expanded on the I/M Summit. The I/M Summit will be held on July 22, 2005 at 10 a.m. It is currently scheduled at the East West Gateway Boardroom. The attendance list for the summit has grown so the program working with Mike Coalson to see how many people the room can accommodate. The official invitation should be going out in the next few days. There are a fair number of legislatures on the list. The program has tried to include those who have shown an interest in the program. This includes all of the interim committee members from the House, the chairs of the Transportation Committees of both chambers, plus the fee legislators were included on the list, and the sponsors and cosponsors of the pieces of legislation that were filed last session. The program does not expect them all to attend, but a fair number of them might attend the kickoff meeting. For any of those who can not participate in all of the meetings, the program will keep its Web site updated.

At the summit meeting, the program will discuss where it is, what it knows will be required, and what it needs to look at for its post 2007 I/M program.

##### **b) Ozone Update**

Ms. Tippet Mosby also expanded on the air quality in St. Louis and Kansas City. She reminded the commission and the audience how the 1-hour standard is different from the 8-hour standard. When Missouri moved from the 1-hour standard to the 8-hour standard, the way the standard was calculated changed. When the 1-hour standard was in place, the focus was on exceedances, because it was an exceedance-based

standard. The program looked at the number of times the monitors exceeded the standard. A violation occurred when any monitor had four exceedances in a three-year period.

The 8-hour standard is a concentration based standard. The standard is calculated by averaging the fourth highest value over a three-year monitoring period. For example, at the West Alton monitor, if the 87 parts per billion had not been reached yesterday, had it only reached 86 parts per billion, that would not have put that monitor back in violation. The West Alton monitor could have had numerous exceedances at 86 without actually reaching a violation because it is the average of that fourth highest value. Since people tend to use the word exceedance and violation interchangeably, it is tricky. The word exceedance and violation are really not interchangeable. As Mr. Kavanaugh stated, since the West Alton monitor reached 87 parts per billion yesterday, once the data is quality assured, that monitor will be in violation for the 2003 to 2005 monitoring period.

**c) Former Commissioner**

Ms. Tippet Mosby stated that a former member of the commission was in attendance at the meeting.

Commissioner Mark Garnett introduced his father, Jess Garnett, former Missouri Air Conservation commissioner and five-term state representative for the State of Missouri.

**d) Program and Stakeholder Meetings**

Ms. Tippet Mosby thanked the commission for spending time with program staff on June 29, 2005. Program staff were able to introduce their work to the commission and the commission was provided the opportunity to ask questions.

Ms. Tippet Mosby said that as an adjunct to what the program staff did yesterday, the stakeholders have mentioned that they would like to have a similar meeting with the commission. The program agrees with this idea. Kevin Perry came up with the idea and has agreed to help staff coordinate an agenda. Ms. Tippet Mosby invited the commissioners to let staff know if they have anything in particular they would like to hear about from the stakeholders. The program is looking at August 24, 2005, but there may be a conflict of schedules. The program will work out the details and keep the commission updated.

Chairman Foresman commented that he and the other commissioners appreciated the update from program staff and Tim Duggan from the AGO.

**e) Air Program Advisory Forum**

The next meeting of the Air Program Advisory Forum will be August 24, 2005, in Jefferson City.

**D. Unfinished Business**

None.

**E. Public Hearing**

Chairman Foresman called the public hearing to order.

Tiffany Campbell presented Missouri State Implementation Plan—Update to Kansas City Maintenance Plan for Control of Ozone. Information on the proposed revision begins on Page 93 of the June Briefing Document.

John Rustige presented Missouri State Implementation Plan - Doe Run Herculaneum, Modification to Consent Judgement. Information on the proposed revision begins on Page 151 of the June Briefing Document.

Ron Jeffries presented 10 CSR 10-2.390 (amendment) Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws. Information on the proposed rule begins on Page 173 of the June Briefing Document.

Ron Jeffries presented 10 CSR 10-5.480 (amendment) Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws. Information on the proposed rule begins on Page 247 of the May Briefing Document.

To obtain a copy of the hearing transcript, please contact the court reporter.

**F. Recommended for Adoption or Actions to be Voted on**

Bruce Volner presented comments and responses to 10 CSR 10-6.070 (amendment) New Source Performance Regulations. Information on the proposed rule amendment begins on Page 321 of the briefing document.

Commissioner Baker moved to adopt the rule amendment as proposed. Commissioner Garnett seconded, all commissioners voted to adopt the proposed rule amendment.

Bruce Volner presented comments and responses to 10 CSR 10-6.075 (amendment) Maximum Achievable Control Technology Regulations. Information on the proposed rule amendment begins on Page 323 of the briefing document.

Commissioner Dennis Voisey moved to adopt the rule amendment as proposed. Commissioner Mark Fohey seconded, all commissioners voted to adopt the proposed rule amendment.

Bruce Volner presented comments and responses to 10 CSR 10-6.080 (amendment) Emission Standards for Hazardous Air Pollutants. Information on the proposed rule amendment begins on Page 325 of the briefing document.

Commissioner Baker moved to adopt the proposed rule amendment as revised. Commissioner Kevin Rosenbohm seconded, all commissioners voted to adopt the proposed rule amendment as revised

Rick Campbell presented NO<sub>x</sub> SIP Call Emissions Budget Demonstration for Missouri. Information on the proposed Budget Demonstration begins on Page 329 of the briefing document.

Commissioner Fohey moved to approve the Budget Demonstration as revised. Commissioner Voisey seconded, all commissioners voted to approve the Budget Demonstration.

## **G. New Business**

### **a) AGO Referrals**

Mr. Feeler explained that he had received a request from a representative of Morgan Development Company that the referral be deferred for at least one month of due to health concerns of the principal of the company.

Chairman Foresman deferred the Morgan Development Company referral request to the August 25, 2005 commission meeting.

Mr. Feeler presented a referral request for Mr. Troy Colley. Information on the proposed referral begins on Page 361 of the briefing document.

Commissioner Baker moved to refer Mr. Troy Colley to the AGO. Commissioner Voisey seconded the motion. All commissioners voted for referral to the AGO.



**b) Necessity Findings**

Mr. Kavanaugh requested the commission approve four necessity findings for proposed rule amendments to 10 CSR 10-6.010, 10 CSR 10-6.020, 10 CSR 10-6.030 and 10 CSR 10-6.040. These proposed rule actions will adopt the new federal 8-hour ozone and PM<sub>2.5</sub> Air Quality Standards; update definitions and common reference tables for the PM<sub>2.5</sub> standards; update the sampling methods to include federal methods for PM<sub>2.5</sub>; and update reference methods to include federal methods for PM<sub>2.5</sub> standards.

If the commission approves a necessity finding for each of these, the tentative public hearing date is expected to be in September of 2005.

Commissioner Fohey moved to approve the Necessity Findings for 10 CSR 10-6.010, 10 CSR 10-6.020, 10 CSR 10-6.030 and 10 CSR 10-6.040. Commissioner Baker seconded; all commissioners voted to approve the findings.

**H. Appeals and Variance Requests**

None.

**I. Open Session**

There were no requests to address the commission.

**J. Future Meeting Dates**

**July 21, 2005 – Poplar Bluff**

Holiday Inn

Salon D

2781 North Westwood Boulevard

Poplar Bluff, MO 63901

**August 25, 2005 – Jefferson City**

Governor Office Building

Room 450

200 Madison Street

Jefferson City, MO 65101

**September 29, 2005 – Kansas City**

DoubleTree Hotel / Radisson Hotel & Suites

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1301 Wyandotte

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**October 27, 2005 – Jefferson City**

Governor Office Building

Room 450

200 Madison Street

Jefferson City, MO 65101

**December 8, 2005 – Springfield**

University Plaza Hotel

Colorado Room

333 John Q. Hammons Parkway

Springfield, MO 65806

Ms. Tippet Mosby explained that the September 29, 2005 commission meeting is still in the same location. However, the hotel has changed its name from the DoubleTree Hotel to the Radisson Hotel & Suites. This change will be reflected in the July Briefing Document.

The July 2005 commission meeting is a week ahead of the normal commission meeting schedule due to the Environmental Conference at Lake of the Ozarks.

Ms. Tippet Mosby also proposed that the program prepare a list of meeting dates for 2006 for the commissions consideration at the July 21, 2005 commission meeting.

Chairman Foresman stated that would be agreeable.

Ms. Tippet Mosby commented that Kevin Perry had inquired if it the commission might be available on July 20, 2005 for stakeholders to meet with the commission.

Chairman Foresman replied that the commission was looking to hold the stakeholder workgroup meeting in Jefferson City because it is a convenient location for the majority of the stakeholders. The commission does like to have meetings around the state so that people from various locations can participate. If you live in the northwest part of the state and you have to travel to Poplar Bluff it takes quite a while. It does create an imposition on people due to the travel time. Being there a half a day earlier makes it even tougher. However, if a sufficient number of stakeholders can get together for the meeting in Poplar Bluff, the commission would be agreeable. Chairman Foresman left the decision up to Mr. Perry.

Ms. Tippet Mosby replied that the meeting time and location would be worked on.

**K. Discussion of Pending Litigation and Legal Matters**

None.

**L. Missouri Air Conservation Commission**

Commissioner Garnett moved to adjourn the June 30, 2005, Missouri Air Conservation meeting. Commissioner Baker seconded; all commissioners voted to adjourn the meeting.

Chairman Foresman adjourned the June 30, 2005, Missouri Air Conservation Commission meeting.

Respectfully submitted,

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Leanne Tippet Mosby, Director  
Air Pollution Control Program

Approved:

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Michael Foresman, Chairman  
Missouri Air Conservation Commission

# SETTLEMENT UPDATE

July 01, 2005

## AGREEMENT ACHIEVED

Violation	Name	Negotiations Initiated	Paid Amount	Penalty Suspended
<b>Asbestos</b>				
	AFS Grocery Store	02-03-05	\$500	\$1,500
	Angell, Daniel	12-14-04	\$0	\$0
	AT Abatement	05-04-05	\$0	\$0
	Bahm Demolition	07-26-04	\$2,500	\$7,500
	Cannon Excavation, Inc.	08-23-04	\$0	\$0
	DHP Investment	05-11-04	\$2,000	\$4,000
	Dornin Demolition	02-03-05	\$0	\$2,000
	Eastman, Mark	12-03-04	\$0	\$2,000
	Eber, Dr. Jerry	03-04-04	\$1,000	\$9,000
	Hackman, Jim	06-04-04	\$500	\$0
	Highway 36 Enterprises, LLC	12-14-04	\$0	\$0
	J&C Environmental	02-18-04	\$1,500	\$4,500
	J&C Environmental	02-18-04	\$1,500	\$4,500
	KJT Environmental	03-29-05	\$500	\$1,500
	Lampley & Associates	10-27-03	\$1,000	\$3,000
	Mack Kitchens	06-01-05	\$500	\$1,500
	Millersburg Feed and Trade LLC	12-16-04	\$0	\$0
	Mr. & Mrs. Wilbur Scott, Jr.	03-14-05	\$0	\$2,000
	Roush, Ted	12-06-04	\$500	\$1,500
	St. Joseph, City of	01-25-05	\$0	\$0
	T&T Demolition	02-18-04	\$3,000	\$0
	Tesson Ferry Property LLC	02-02-05	\$500	\$1,500
	Tom Rieck	03-07-05	\$0	\$2,000
	Trenton, City of	05-07-03	\$3,000	\$4,000
<b>Asbestos/Open Burning</b>				
	Maryville Public Safety	08-04-04	\$1,000	\$5,000
	Tom Payne, Schloman Trailer Court	03-07-05	\$0	\$4,000
<b>Charcoal Kiln/Construction Permit/Operating Permit</b>				
	Missouri Hardwood Charcoal	04-19-05	\$500	\$1,500
<b>Construction Permit</b>				
	All Line Equipment	05-04-05	\$500	\$1,500
	Boone County Millwork	03-30-05	\$0	\$6,000
	Citgo #2222	03-30-05	\$500	\$1,500
	James Cape & Sons Company	12-07-04	\$1,500	\$2,500
	James Cape & Sons Company	12-22-04	\$2,500	\$0
	James Cape & Sons Company	04-10-02	\$4,000	\$0

## **AGREEMENT ACHIEVED**

<b>Violation</b>	<b>Name</b>	<b>Negotiations Initiated</b>	<b>Paid Amount</b>	<b>Penalty Suspended</b>
<b>Construction Permit/Operating Permit</b>				
	Lafarge, Sedalia Quarry & Asphalt	06-08-05	\$500	\$1,500
	Leggett & Platt, Wire Mill - Carthage Central Ave	06-08-05	\$500	\$1,500
	Solutia, Inc.	08-05-04	\$10,000	\$0
	Weyerhaeuser	06-08-05	\$500	\$1,500
<b>EIQ</b>				
	Buddy's Cleaners	07-07-04	\$0	\$0
	Cameron Concrete	07-03-02	\$500	\$0
	Carson Funeral Home	07-08-02	\$500	\$0
	Dorothy's Cleaners	01-12-05	\$500	\$1,500
	Dry Clean \$1.69a	01-18-02	\$250	\$0
	Executive Shirt Service	08-25-03	\$1,500	\$0
	Indeeco	03-23-05	\$500	\$1,500
	J&P Wood Products	06-21-04	\$0	\$0
	Midstates Laundry & Cleaners	07-11-02	\$250	\$0
	U.S. \$1.75 Cleaners	01-02-04	\$1,500	\$0
<b>Fugitive Dust</b>				
	Emery Sapp and Sons, Inc.	05-17-05	\$4,000	\$0
<b>MACT</b>				
	Hydro Aluminum Wells	05-18-05	\$4,000	\$6,000
<b>NSPS</b>				
	Roland Machinery Company	05-31-05	\$2,000	\$4,000
<b>Opacity</b>				
	Magic Green Corporation	08-05-04	\$0	\$0
<b>Open Burning</b>				
	APAC	12-29-04	\$0	\$2,000
	Bill Snider (Town & Country Motors)	12-28-04	\$1,500	\$0
	Hopkins, Don & Michael	04-06-05	\$900	\$3,100
	Hutton, David	01-07-05	\$0	\$2,000
	Jamie Seaton	12-29-04	\$0	\$0
	John Cavanaugh Construction, LLC	01-21-05	\$500	\$3,500
	John Seitz	07-15-04	\$500	\$3,500
	Lake Annette, City of	08-06-04	\$0	\$2,000
	MFA, Inc.	04-12-04	\$0	\$2,000
	Oscar Penn	09-17-03	\$3,500	\$0
	Pat Duffy	01-12-05	\$0	\$2,000
	Paul Ferrel	06-22-01	\$500	\$1,500
	Petty, Allen	09-10-04	\$0	\$2,000
	Randy McCloud	09-03-04	\$0	\$4,000
	Robert Ellerman	04-11-05	\$500	\$1,500

## **AGREEMENT ACHIEVED**

<b>Violation</b>	<b>Name</b>	<b>Negotiations Initiated</b>	<b>Paid Amount</b>	<b>Penalty Suspended</b>
<b>Open Burning</b>				
	Rondal Williamson	12-24-03	\$750	\$3,000
	Timberline Custom Cabinets	04-05-05	\$2,000	\$1,500
<b>Operating Permit</b>				
	A B Chance	03-11-02	\$4,000	\$4,000
	Altec Industries, Inc.	05-31-05	\$2,000	\$0
	Beelman River Terminals, Inc.	07-06-04	\$500	\$500
	E.F. Marsh Engineering	10-23-03	\$1,500	\$3,500
	Federal-Mogul Friction Products	12-20-04	\$2,000	\$3,000
<b>Stage I</b>				
	D&J Auto Service, Inc.	05-17-05	\$0	\$2,000
	I-55 Motor Plaza	05-17-05	\$0	\$2,000
	Pevely Citgo	05-17-05	\$0	\$2,000
	Site Store #100	04-22-05	\$0	\$2,000
<b>Stage II</b>				
	7 Eleven #3516	12-14-04	\$2,000	\$0
	AMOCO #0228	12-29-04	\$0	\$2,000
	AMOCO #0255	12-29-04	\$500	\$1,500
	AMOCO #5465 (Lion pet.)	12-15-04	\$0	\$2,000
	Costco #3540	01-21-05	\$0	\$2,000
	Fisca #3704	03-17-05	\$2,500	\$0
	Jorden's Citgo	12-16-04	\$0	\$2,000
	Lauber's Mini Mart, Inc.	05-17-05	\$0	\$2,000
	Mobil #0183 (Wallis)	10-08-04	\$0	\$6,000
	Mobil #0364 (Wallis)	12-30-04	\$0	\$6,000
	Mobil #1503	12-02-04	\$0	\$6,000
	Mobil #2346 (Wallis)	02-25-05	\$0	\$6,000
	Mobil #2655 (Wallis Oil)	01-21-05	\$0	\$6,000
	Mobil #3502	12-29-04	\$0	\$0
	Motomart #3301 (FKG Oil)	02-25-05	\$1,500	\$0
	Phillip 66 (National Petroleum)	06-16-04	\$1,500	\$0
	Phillips #3701 (Pit Stop corp)	03-17-05	\$0	\$2,000
	Phillips 66 #2487	03-03-05	\$0	\$2,000
	Piasa Pantry #3702	03-14-05	\$0	\$2,000
	Shell #0020	09-30-04	\$0	\$2,000
	Shell #2073 (Spirit Energy)	11-12-04	\$2,000	\$0
	Sinclair #2152	06-09-05	\$1,500	\$0
	Thoele Oil Company	03-14-02	\$2,000	\$4,000
<b>Stage II - Construction</b>				
	7 Eleven #2929	02-02-05	\$2,000	\$0

## **AGREEMENT ACHIEVED**

<b>Violation</b>	<b>Name</b>	<b>Negotiations Initiated</b>	<b>Paid Amount</b>	<b>Penalty Suspended</b>
<b>Stage II - Construction</b>				
	Citgo 0267	05-20-05	\$0	\$2,000
	Commonwealth Construction	02-25-05	\$500	\$1,500
	Parker Petroleum	02-01-05	\$500	\$1,500
<b>Stage II - Dispense Illegally</b>				
	BP AMOCO #2928	11-03-04	\$2,000	\$2,200
	Motomart #1617	12-01-04	\$500	\$0
	Petromart #2007 (Western Oil)	05-12-05	\$0	\$2,000
<b>Vapor Recovery</b>				
	Pinnacle Mobil	12-01-04	\$0	\$2,000

## **NEGOTIATIONS ONGOING**

<b>Violation</b>	<b>Name</b>	<b>Negotiations Initiated</b>
<b>Asbestos</b>		
	ABC Demolition	06-04-04
	Barnes Construction and Roofing, Inc.	06-17-05
	Barsto Construction	03-04-05
	Bricker Excavating	02-28-05
	Building Restoration/Mound City Development	12-15-04
	C & D Heating and Cooling	01-23-04
	Carver, Craig	11-17-04
	Cason, Cheri	07-30-04
	Construction and Abatement Services, Inc	03-04-05
	Cozean Memorial Chapel	06-17-05
	Enterprise Bank	02-15-05
	First Baptist Church Doniphan	08-04-05
	Gaines Wrecking	02-24-04
	Glen Gery Corporation	06-14-05
	GMMP	02-09-04
	Hance Excavating	12-14-04
	Hobby Lobby	05-12-05
	Hoggatt, Travis	03-29-04
	Hoot-N-Anny's Bar Grill	12-03-04
	King Environmental	06-14-05
	LRA	06-16-03
	Millennium Wrecking, Inc.	03-05-04
	MoDOT	08-21-03
	Morgan Development Company	04-01-04
	Paric Corporation	02-15-05
	Prestige Construction	12-16-04
	Renegade Construction, Inc.	06-17-05
	St. Louis Public Safety	11-03-03
<b>Asbestos/Open Burning</b>		
	American Pre-Arranged Services	06-02-05
	GCR Enterprises	04-05-04
	Gilworth Furniture	07-30-04
	Scott Excavating	06-02-05
<b>Construction Permit</b>		
	Courtney Excavating and Construction Inc	08-10-04
	Daimler Chrysler- St. Louis South	04-25-05
	MFA Agri Services-Laddonia	08-26-04
	Pacific Phillips 66	05-04-05
	The Environmental Resource	10-18-04



## **NEGOTIATIONS ONGOING**

<b>Violation</b>	<b>Name</b>	<b>Negotiations Initiated</b>
<b>Construction Permit/Operating Permit</b>		
	Vandalia Power Plant	06-08-05
<b>Denial of Access</b>		
	Gerstner, Bernie	06-02-05
<b>Dry Cleaning</b>		
	Express Valet	01-12-05
	Slaughter's Cleaners	12-28-04
<b>EIQ</b>		
	Kirkwood Cleaners	01-13-05
	W. L. Miller Company, Kirksville facility	
	W. L. Miller Company, Portable Asphalt Plant	
<b>Fugitive Dust</b>		
	Powell & Powell	
<b>MACT</b>		
	Stewart's Quality Cleaners	12-22-04
<b>Open Burning</b>		
	Ace Trash Service	01-11-05
	Acup, Freddy	05-10-04
	Banks, Tom	06-08-05
	Burkeybile, Bob	12-21-04
	Crocker, Mark (CCC Properties)	03-15-05
	Cunningham, Charlie	04-26-05
	D&D Construction	04-11-05
	Daniel Gross	05-21-02
	Earl, Mike & Diane	06-09-05
	Gerlt, Donald	06-08-05
	Graves, Cecil P	05-02-05
	H. David Kruger dba Rural Trash Services	12-27-04
	Helton, Greg	03-14-05
	Helton, Greg	03-14-05
	Hicks, Marion	04-08-05
	Isenhour, Fred	06-02-05
	Johnson, John	04-20-05
	Kelly, Richard	05-17-05
	Kester's House Moving	04-28-04
	Lakeway Tradin' Post	02-10-05
	M/M Butch and Sherry Woolery	05-27-05
	Marco, Justin	06-02-05
	Mark Russell	04-08-05
	Michael Fisher	05-03-05

## **NEGOTIATIONS ONGOING**

<b>Violation</b>	<b>Name</b>	<b>Negotiations Initiated</b>
<b>Open Burning</b>		
	Milsteads 131 Drive-In	03-21-05
	Mr. & Mrs. Gary Herndon (Rawlin Bloom)	06-06-05
	Reando, William and Diane	07-23-04
	Rocky Keirn	08-27-04
	Ron Sells	10-20-04
	Singleton, John	02-06-04
	Sumpter & Son Pallet	04-04-05
	Tackett, Larry	06-02-05
	Tyke Entertainment dba Shooter's 21	06-19-02
<b>Operating Permit</b>		
	1st Capitol Cleaners	08-27-03
	Bootheel Ethanol LLC	06-09-05
	Buckhorn Rubber	06-09-05
	G3 Boats	03-19-04
	K&R Wood Products Inc	12-28-04
	King Quarry Incorporated	08-25-03
	Martin Marietta	05-27-05
	Sullivan Precision Metal Finishing	06-09-05
	Table Rock Asphalt (248 Quarry)	06-09-05
	Table Rock Asphalt (Quarry #3)	06-09-05
<b>Solvent Metal Cleaning/Construction Permit</b>		
	Beelman River Terminals	06-09-05
<b>Stage I</b>		
	Country Corner Citgo	07-01-05
	Mobil (Froesel Oil)	
	Riverview Gardens Transportation	05-03-05
<b>Stage II</b>		
	7 Eleven 2416	06-09-05
	Alliance Petroleum, LLC	06-29-05
	BP Amoco #0231	03-22-05
	BP AMOCO #0276	03-09-05
	BP AMOCO #0287	03-09-05
	BP AMOCO #2053	03-09-05
	BP Amoco #2383	01-20-05
	BP Amoco #2586	04-27-05
	BP AMOCO #3409	03-09-05
	BP Amoco #3611	03-14-05
	BP AMOCO 2586	04-28-05
	De Soto Fuels, Inc.	07-01-05

## **NEGOTIATIONS ONGOING**

<b>Violation</b>	<b>Name</b>	<b>Negotiations Initiated</b>
<b>Stage II</b>		
	Fastlane #3242	12-01-04
	Sam's Club #3000	05-13-05
	Spirit Energy - Shell Station	05-25-05
<b>Vapor Recovery</b>		
	Rosemark #3 Phillips 66	12-02-04

**PENDING CASES REFERRED**  
**TO ATTORNEY GENERAL'S OFFICE**

<b>Violation</b>	<b>Name</b>	<b>Commission Referral Date</b>
<b>Asbestos</b>		
	Foster's Pelican Point Family Limited Partnership	09-30-04
	Foster, Buford	09-30-04
	Goodwin Bros. Construction	02-10-05
	Hayes Jr., Reverend Lloyd	05-26-05
	Loni Properties	02-10-05
	Royal Environmental	04-24-04
<b>Denial of Access</b>		
	Olean Seed Company	03-31-05
<b>EIQ</b>		
	Colonial Cleaners & Commercial Laundry	03-27-03
	Hilty Quarries	05-29-03
<b>EIQ/Operating Permit</b>		
	Dry Clean \$1.69	03-28-02
<b>MACT</b>		
	Scrubby Duds, Kirksville	06-21-01
<b>Open Burning</b>		
	Ford, Steve	09-30-04
	Gary Schmidt	12-04-03
	John Castle	05-26-05
	John E. Childs	10-22-04
	Joseph A. Ayres	02-10-05
	Roy Purinton	05-29-03
	Troy Colley	06-30-05
<b>Operating Permit</b>		
	Black Tie Cleaners	06-24-04
	G3 Boats	09-30-04
	National Dry Cleaners	03-25-04
	Precision Marble	05-26-05
<b>Stage I</b>		
	Indepence Gas & Speedy Mart, Inc.	05-26-05
<b>Stage II</b>		
	Casey's General Store	12-02-04
	Purschke Oil Company	04-29-04



Missouri Department of Natural Resources  
Air and Land Protection Division  
Air Pollution Control Program

**PERMIT APPLICATIONS  
RECEIVED**

	Construction Permits	Operating Permits	Total
January	41	31	72
February	51	37	88
March	73	28	101
April	52	25	77
May	69	24	93
<b>June</b>	<b>38</b>	<b>29</b>	<b>67</b>
Total	324	174	498

# Department of Natural Resources

## Air and Land Protection Division

### Permits Management System

#### Air Pollution Control Program

<b>Company:</b> Norris Asphalt Paving - Breit Quarry	<b>Description:</b> Colocate PORT-0107-electrosub
<b>Location:</b> 16298 Hwy 71	<b>Permit Type:</b> AP: IR Corrections & Amendments
<b>City:</b> Savannah	<b>Status:</b> AP: Awaiting Completeness Check
<b>County:</b> Andrew	<b>Received:</b> 6/2/2005
<b>Project#:</b> AP200506003	
<b>Company:</b> Norris Asphalt Paving - Breit Quarry	<b>Description:</b> Rock Crushing-electrosub
<b>Location:</b> 16298 Hwy 71	<b>Permit Type:</b> AP: Sec 4: Relocate to New Site
<b>City:</b> Savannah	<b>Status:</b> AP: Applicant responding to technical request
<b>County:</b> Andrew	<b>Received:</b> 6/2/2005
<b>Project#:</b> AP200506004	
<b>Company:</b> Norris Asphalt Paving - Breit Quarry	<b>Description:</b> Limestone
<b>Location:</b> 16298 Hwy 71	<b>Permit Type:</b> AOP: Basic Operating Permit
<b>City:</b> Savannah	<b>Status:</b> AP: Receive, Log, Assign
<b>County:</b> Andrew	<b>Received:</b> 6/30/2005
<b>Project#:</b> AP200507003	
<b>Company:</b> Archer Daniels Midland Co	<b>Description:</b> Soybean Extraction
<b>Location:</b> 400 E HOLT ST	<b>Permit Type:</b> AOP: Part 70 Operating Permit Renewal
<b>City:</b> Mexico	<b>Status:</b> AP: Awaiting Technical Review
<b>County:</b> Audrain	<b>Received:</b> 6/16/2005
<b>Project#:</b> AP200506052	
<b>Company:</b> Hilty Quarries at Ash Grove	<b>Description:</b> Asphalt
<b>Location:</b> T40N:R31W:S30:NE:NW	<b>Permit Type:</b> AP: Sec 4: Relocate to New Site
<b>City:</b> Butler	<b>Status:</b> AP: IR Unit Assignment
<b>County:</b> Bates	<b>Received:</b> 6/27/2005
<b>Project#:</b> AP200506077	
<b>Company:</b> University of Missouri - Columbia	<b>Description:</b> Quarterdeck printing press
<b>Location:</b> 8 Research Park Dev Bldg	<b>Permit Type:</b> AP: Sec 5 & 6: Dminimis and Minor
<b>City:</b> Columbia	<b>Status:</b> AP: Technical Review
<b>County:</b> Boone	<b>Received:</b> 6/21/2005
<b>Project#:</b> AP200506063	
<b>Company:</b> Briggs & Stratton Corp.	<b>Description:</b> Crankshaft washer
<b>Location:</b> 731 MO Hwy 142	<b>Permit Type:</b> AP: Applicability Determination Request
<b>City:</b> Poplar Bluff	<b>Status:</b> AP: Awaiting Completeness Check
<b>County:</b> Butler	<b>Received:</b> 6/28/2005
<b>Project#:</b> AP200506079	
<b>Company:</b> David Arndt's Cabinets	<b>Description:</b> Custom Cabinets
<b>Location:</b> 3355 CR 426	<b>Permit Type:</b> AP: Applicability Determination Request
<b>City:</b> Poplar Bluff	<b>Status:</b> AP: Awaiting Completeness Check
<b>County:</b> Butler	<b>Received:</b> 6/1/2005
<b>Project#:</b> AP200506028	
<b>Company:</b> Everett Quarries 6	<b>Description:</b> Rock Crushing - BMP, electrosub
<b>Location:</b> 660 SE Quarry Dr	<b>Permit Type:</b> AP: IR Sec 5 & 6: Dminimis and Minor
<b>City:</b> Kingston	<b>Status:</b> AP: IR Completeness Check
<b>County:</b> Caldwell	<b>Received:</b> 6/10/2005
<b>Project#:</b> AP200506042	
<b>Company:</b> APAC - Richardson Bass	<b>Description:</b> Asphalt
<b>Location:</b> County Hwy J	<b>Permit Type:</b> AP: Sec 4: Relocate to New Site
<b>City:</b> Millersburg	<b>Status:</b> AP: Final Clerical Prep
<b>County:</b> Callaway	<b>Received:</b> 6/15/2005
<b>Project#:</b> AP200506046	

<b>Company:</b> Merten's Construction Co, Inc	<b>Description:</b> Co-located APAC portable
<b>Location:</b> US Hwy 54	<b>Permit Type:</b> AP: IR Corrections & Amendments
<b>City:</b> Auxvasse	<b>Status:</b> AP: Awaiting Fees
<b>County:</b> Callaway	<b>Received:</b> 6/3/2005
<b>Project#:</b> AP200506001	
<b>Company:</b> Biokyowa Inc.	<b>Description:</b> Increase Methanol Use
<b>Location:</b> 975 Nash Road	<b>Permit Type:</b> AP: Applicability Determination Request
<b>City:</b> Cape Girardeau	<b>Status:</b> AP: Technical Review
<b>County:</b> Cape Girardeau	<b>Received:</b> 6/27/2005
<b>Project#:</b> AP200506073	
<b>Company:</b> Lone Star Industries	<b>Description:</b> Petroleum Coke evaluation
<b>Location:</b> 2524 South Sprigg Street	<b>Permit Type:</b> AP: Temporary or Pilot Plant Permit
<b>City:</b> Cape Girardeau	<b>Status:</b> AP: Receive, Log, Assign
<b>County:</b> Cape Girardeau	<b>Received:</b> 6/28/2005
<b>Project#:</b> AP200506078	
<b>Company:</b> Royal Oak Enterprises	<b>Description:</b> Concrete-exceed 2 years
<b>Location:</b> US Hwy 60 W of Ellsinore	<b>Permit Type:</b> AP: IR Applicability Determination Request
<b>City:</b> Ellsinore	<b>Status:</b> AP: No Permit Required
<b>County:</b> Carter	<b>Received:</b> 6/10/2005
<b>Project#:</b> AP200506041	
<b>Company:</b> Materials Packaging Corp	<b>Description:</b> Dry Concrete Haul Road and aggregate Moistu
<b>Location:</b> 23018 S 291 Hwy	<b>Permit Type:</b> AP: IR Sec 5 & 6: Deminimis and Minor
<b>City:</b> Harrisonville	<b>Status:</b> AP: IR Completeness Check
<b>County:</b> Cass	<b>Received:</b> 6/6/2005
<b>Project#:</b> AP200506031	
<b>Company:</b> Nixa USA Inc	<b>Description:</b> Window Film converter
<b>Location:</b> 1003 Falconcrest	<b>Permit Type:</b> AP: Applicability Determination Request
<b>City:</b> Nixa	<b>Status:</b> AP: Receive, Log, Assign
<b>County:</b> Christian	<b>Received:</b> 6/20/2005
<b>Project#:</b> AP200506075	
<b>Company:</b> Norris Asphalt Paving	<b>Description:</b> Limestone
<b>Location:</b> T60N:R27W:S33:SW:SW MO Hwy 13 N	<b>Permit Type:</b> AOP: Basic Operating Permit
<b>City:</b> Gallatin	<b>Status:</b> AP: Receive, Log, Assign
<b>County:</b> Daviess	<b>Received:</b> 6/30/2005
<b>Project#:</b> AP200507005	
<b>Company:</b> Norris Asphalt Paving	<b>Description:</b> Limestone
<b>Location:</b> 16664 County Hwy C	<b>Permit Type:</b> AOP: Basic Operating Permit
<b>City:</b> Pattonsburg	<b>Status:</b> AP: Receive, Log, Assign
<b>County:</b> Daviess	<b>Received:</b> 6/30/2005
<b>Project#:</b> AP200507007	
<b>Company:</b> Plaze, Inc.	<b>Description:</b> Process Boilers
<b>Location:</b> 105 Bolte Lane	<b>Permit Type:</b> AP: Corrections & Amendments
<b>City:</b> St. Clair	<b>Status:</b> AP: Awaiting Completeness Check
<b>County:</b> Franklin	<b>Received:</b> 6/21/2005
<b>Project#:</b> AP200506066	
<b>Company:</b> Von Weise Gear Co	<b>Description:</b> Terminate OP
<b>Location:</b> St. Clair Industrial Park	<b>Permit Type:</b> AOP: Basic Operating Permit Amendment
<b>City:</b> St. Clair	<b>Status:</b> AP: Receive, Log, Assign
<b>County:</b> Franklin	<b>Received:</b> 6/24/2005
<b>Project#:</b> AP200506071	
<b>Company:</b> Ozark Asphalt - Curtman site	<b>Description:</b> Asphalt
<b>Location:</b> County Hwy Y	<b>Permit Type:</b> AP: Sec 4: Relocate Approved Site
<b>City:</b> Owensville	<b>Status:</b> AP: Section 4 Permit Issued
<b>County:</b> Gasconade	<b>Received:</b> 6/13/2005
<b>Project#:</b> AP200506047	

<b>Company:</b> City Utilities of Springfield (Southwest	<b>Description:</b> Power Plant
<b>Location:</b> 5050 W County Rd 164	<b>Permit Type:</b> AOP: Part 70 Operating Permit Renewal
<b>City:</b> Springfield	<b>Status:</b> AP: Awaiting Technical Review
<b>County:</b> Greene	<b>Received:</b> 6/20/2005
<b>Project#:</b> AP200506059	
<b>Company:</b> Clariant Life Science Molecules	<b>Description:</b> Pharmaceuticals
<b>Location:</b> 2460 W BENNETT ST	<b>Permit Type:</b> AOP: Part 70 Operating Permit Renewal
<b>City:</b> Springfield	<b>Status:</b> AP: Receive, Log, Assign
<b>County:</b> Greene	<b>Received:</b> 6/27/2005
<b>Project#:</b> AP200506076	
<b>Company:</b> Norris Asphalt Paving - Trenton	<b>Description:</b> Limestone
<b>Location:</b> 38 NW HIGHWAY 146	<b>Permit Type:</b> AOP: Basic Operating Permit
<b>City:</b> Trenton	<b>Status:</b> AP: Receive, Log, Assign
<b>County:</b> Grundy	<b>Received:</b> 6/30/2005
<b>Project#:</b> AP200507011	
<b>Company:</b> Norris Asphalt Paving	<b>Description:</b> Limestone
<b>Location:</b> 29365 Outer Rd	<b>Permit Type:</b> AOP: Basic Operating Permit
<b>City:</b> Bethany	<b>Status:</b> AP: Receive, Log, Assign
<b>County:</b> Harrison	<b>Received:</b> 6/30/2005
<b>Project#:</b> AP200507001	
<b>Company:</b> Norris Asphalt Paving	<b>Description:</b> Asphalt
<b>Location:</b> 29365 Outer Rd	<b>Permit Type:</b> AP: Sec 4: Relocate to New Site
<b>City:</b> Bethany	<b>Status:</b> AP: IR Completeness Check
<b>County:</b> Harrison	<b>Received:</b> 6/30/2005
<b>Project#:</b> AP200506081	
<b>Company:</b> Norris Asphalt Paving - Jeffries	<b>Description:</b> Limestone
<b>Location:</b> T66N:R26W:S03:NE:SW MO Hwy 13 N	<b>Permit Type:</b> AOP: Basic Operating Permit
<b>City:</b> Blythedale	<b>Status:</b> AP: Receive, Log, Assign
<b>County:</b> Harrison	<b>Received:</b> 6/30/2005
<b>Project#:</b> AP200507004	
<b>Company:</b> Golden Triangle Energy	<b>Description:</b> New Tanks
<b>Location:</b> 15053 Hwy 111	<b>Permit Type:</b> AP: Sec 5 & 6: Dminimis and Minor
<b>City:</b> Craig	<b>Status:</b> AP: Awaiting Fees
<b>County:</b> Holt	<b>Received:</b> 6/6/2005
<b>Project#:</b> AP200506011	
<b>Company:</b> Norris Asphalt Paving - Maitland	<b>Description:</b> Limestone
<b>Location:</b> T62N:R37W:S34:SE:SE County Rd 91	<b>Permit Type:</b> AOP: Basic Operating Permit
<b>City:</b> Maitland	<b>Status:</b> AP: Receive, Log, Assign
<b>County:</b> Holt	<b>Received:</b> 6/30/2005
<b>Project#:</b> AP200507009	
<b>Company:</b> Damon Pursell Bass Pro Site	<b>Description:</b> Rock Crushing, Land Clearing, BMP, electrosu
<b>Location:</b> US 40 and MO 291	<b>Permit Type:</b> AP: IR Sec 5 & 6: Dminimis and Minor
<b>City:</b> Independence	<b>Status:</b> AP: IR Completeness Check
<b>County:</b> Jackson	<b>Received:</b> 6/21/2005
<b>Project#:</b> AP200506065	
<b>Company:</b> Hallmark Cards, Inc	<b>Description:</b> Press
<b>Location:</b> 2501 MCGEE ST	<b>Permit Type:</b> AP: Local CP
<b>City:</b> Kansas City	<b>Status:</b> AP: Permit Issued
<b>County:</b> Jackson	<b>Received:</b> 6/9/2005
<b>Project#:</b> AP200506040	
<b>Company:</b> Jim Kidwell Construction	<b>Description:</b> Rock Crushing/Recycling
<b>Location:</b> 8200 E Blue Parkway	<b>Permit Type:</b> AP: Local CP
<b>City:</b> Kansas City	<b>Status:</b> AP: Receive, Log, Assign
<b>County:</b> Jackson	<b>Received:</b> 6/2/2005
<b>Project#:</b> AP200506027	



<b>Company:</b> Little Blue Valley Sewer District	<b>Description:</b> Wastewater Treatment
<b>Location:</b> 21208 E OLD ATHERTON RD	<b>Permit Type:</b> AOP: Basic Operating Permit Renewal
<b>City:</b> Independence	<b>Status:</b> AP: Received Basic OP Issued
<b>County:</b> Jackson	<b>Received:</b> 6/17/2005
<b>Project#:</b> AP200506055	
<b>Company:</b> Sun Chemical	<b>Description:</b> Ink-Making
<b>Location:</b> 6989 NE Corporate Dr	<b>Permit Type:</b> AOP: Intermediate Operating Permit
<b>City:</b> Kansas City	<b>Status:</b> AP: Receive, Log, Assign
<b>County:</b> Jackson	<b>Received:</b> 6/20/2005
<b>Project#:</b> AP200506062	
<b>Company:</b> Pechiney Plastic Packaging, Inc	<b>Description:</b> Printing
<b>Location:</b> 3210 N Progress St	<b>Permit Type:</b> AOP: Part 70 Operating Permit Renewal
<b>City:</b> Joplin	<b>Status:</b> AP: Awaiting Completeness Check
<b>County:</b> Jasper	<b>Received:</b> 6/7/2005
<b>Project#:</b> AP200506037	
<b>Company:</b> Tamko Roofing-Research Lab	<b>Description:</b> Emergency Generators
<b>Location:</b> 402 Wall St	<b>Permit Type:</b> AP: Applicability Determination Request
<b>City:</b> Joplin	<b>Status:</b> AP: Receive, Log, Assign
<b>County:</b> Jasper	<b>Received:</b> 6/17/2005
<b>Project#:</b> AP200506054	
<b>Company:</b> Central Missouri State University	<b>Description:</b> Boilers and spray painting
<b>Location:</b> 100 South St	<b>Permit Type:</b> AOP: Part 70 Operating Permit Renewal
<b>City:</b> Warrensburg	<b>Status:</b> AP: Awaiting Completeness Check
<b>County:</b> Johnson	<b>Received:</b> 6/16/2005
<b>Project#:</b> AP200506053	
<b>Company:</b> Limpus Quarries Inc	<b>Description:</b> Screen size
<b>Location:</b> 1317 County Hwy Z	<b>Permit Type:</b> AP: IR Applicability Determination Request
<b>City:</b> Bates City	<b>Status:</b> AP: Awaiting Completeness Check
<b>County:</b> Lafayette	<b>Received:</b> 6/30/2005
<b>Project#:</b> AP200506083	
<b>Company:</b> MO Rehabilitation Center-	<b>Description:</b> Boiler Unit
<b>Location:</b> 600 N Main St	<b>Permit Type:</b> AP: Sec 5 & 6: Dminimis and Minor
<b>City:</b> Mount Vernon	<b>Status:</b> AP: Technical Review
<b>County:</b> Lawrence	<b>Received:</b> 6/8/2005
<b>Project#:</b> AP200506032	
<b>Company:</b> Leo O'Laughlin Inc	<b>Description:</b> Modification for solo operation
<b>Location:</b> 32544 Lily Rd	<b>Permit Type:</b> AP: Applicability Determination Request
<b>City:</b> Marcelline	<b>Status:</b> AP: Awaiting Completeness Check
<b>County:</b> Linn	<b>Received:</b> 6/16/2005
<b>Project#:</b> AP200506058	
<b>Company:</b> Diversified Diemakers, Inc	<b>Description:</b> Magnesium remelt operation for clean diecast s
<b>Location:</b> 7063 County Road 328	<b>Permit Type:</b> AP: Sec 5 & 6: Dminimis and Minor
<b>City:</b> Palmyra	<b>Status:</b> AP: Unit Chief Review
<b>County:</b> Marion	<b>Received:</b> 6/1/2005
<b>Project#:</b> AP200505111	
<b>Company:</b> Central Redi-Mix LLC	<b>Description:</b> OP Requirement
<b>Location:</b> T21N:R31W:S21:SW:NW Little Missouri	<b>Permit Type:</b> AP: IR Corrections & Amendments
<b>City:</b> Jane	<b>Status:</b> AP: Receive, Log, Assign
<b>County:</b> McDonald	<b>Received:</b> 6/27/2005
<b>Project#:</b> AP200506072	
<b>Company:</b> Norris Asphalt Paving	<b>Description:</b> Limestone
<b>Location:</b> T64N:R24W:S03:NE:SE County Rd 172	<b>Permit Type:</b> AOP: Basic Operating Permit
<b>City:</b> Princeton	<b>Status:</b> AP: Receive, Log, Assign
<b>County:</b> Mercer	<b>Received:</b> 6/30/2005
<b>Project#:</b> AP200507008	

<b>Company:</b> Norris Asphalt Paving Co - Mercer	<b>Description:</b> Limestone
<b>Location:</b> T66N:R23W:S22:NW:SW County Hwy M	<b>Permit Type:</b> AOP: Basic Operating Permit
<b>City:</b> Mercer	<b>Status:</b> AP: Receive, Log, Assign
<b>County:</b> Mercer	<b>Received:</b> 6/30/2005
<b>Project#:</b> AP200507010	
<b>Company:</b> Sandidge Concrete, LLC	<b>Description:</b> Concrete
<b>Location:</b> 58948 Molly Branch Rd	<b>Permit Type:</b> AP: IR Sec 5 & 6: Deminimis and Minor
<b>City:</b> High Point	<b>Status:</b> AP: IR Completeness Check
<b>County:</b> Moniteau	<b>Received:</b> 6/6/2005
<b>Project#:</b> AP200506010	
<b>Company:</b> C.B. Asphalt - Marston	<b>Description:</b> Asphalt
<b>Location:</b> Hwy AD	<b>Permit Type:</b> AP: Sec 4: Relocate to New Site
<b>City:</b> Marston	<b>Status:</b> AP: Section 4 Permit Issued
<b>County:</b> New Madrid	<b>Received:</b> 6/2/2005
<b>Project#:</b> AP200506002	
<b>Company:</b> Premier Turbines	<b>Description:</b> Paint Booth
<b>Location:</b> 3351 Doniphan Drive	<b>Permit Type:</b> AP: Permit-by-Rule
<b>City:</b> Neosho	<b>Status:</b> AP: IR Completeness Check
<b>County:</b> Newton	<b>Received:</b> 6/21/2005
<b>Project#:</b> AP200506064	
<b>Company:</b> Norris Aggregate Products	<b>Description:</b> Limestone
<b>Location:</b> County Rd 940	<b>Permit Type:</b> AOP: Basic Operating Permit
<b>City:</b> Barnard	<b>Status:</b> AP: Receive, Log, Assign
<b>County:</b> Nodaway	<b>Received:</b> 6/30/2005
<b>Project#:</b> AP200507002	
<b>Company:</b> Norris Asphalt Paving Co - Gooden	<b>Description:</b> Limestone
<b>Location:</b> MO Hwy 46 N	<b>Permit Type:</b> AOP: Basic Operating Permit
<b>City:</b> Ravenwood	<b>Status:</b> AP: Receive, Log, Assign
<b>County:</b> Nodaway	<b>Received:</b> 6/30/2005
<b>Project#:</b> AP200507006	
<b>Company:</b> Central Electric Power Cooperative	<b>Description:</b> Power Plant
<b>Location:</b> Hwy 100 East	<b>Permit Type:</b> AOP: Part 70 Operating Permit Renewal
<b>City:</b> Chamois	<b>Status:</b> AP: Awaiting Completeness Check
<b>County:</b> Osage	<b>Received:</b> 6/20/2005
<b>Project#:</b> AP200506060	
<b>Company:</b> S and S Metal Fabricators	<b>Description:</b> Metal Fabrication
<b>Location:</b> 319 E First St	<b>Permit Type:</b> AP: Applicability Determination Request
<b>City:</b> Chamois	<b>Status:</b> AP: Receive, Log, Assign
<b>County:</b> Osage	<b>Received:</b> 6/17/2005
<b>Project#:</b> AP200506048	
<b>Company:</b> East Perry Lumber Company	<b>Description:</b> Wood- Fired Boiler
<b>Location:</b>	<b>Permit Type:</b> AP: Sec 5 & 6: Deminimis and Minor
<b>City:</b> Frohna	<b>Status:</b> AP: IR Completeness Check
<b>County:</b> Perry	<b>Received:</b> 6/30/2005
<b>Project#:</b> AP200506082	
<b>Company:</b> Tyson Foods-Chicken	<b>Description:</b> Temporary Boiler
<b>Location:</b> 19571 WHITFIELD RD	<b>Permit Type:</b> AP: Temporary or Pilot Plant Permit
<b>City:</b> SEDALIA	<b>Status:</b> AP: Unit Chief Review
<b>County:</b> Pettis	<b>Received:</b> 6/13/2005
<b>Project#:</b> AP200506043	
<b>Company:</b> Hercules, Inc: Aqualon Div: MO Chem Work	<b>Description:</b> Chemical Production
<b>Location:</b> 11083 HIGHWAY D	<b>Permit Type:</b> AOP: Part 70 Operating Permit Renewal
<b>City:</b> Louisiana	<b>Status:</b> AP: Awaiting Completeness Check
<b>County:</b> Pike	<b>Received:</b> 6/14/2005
<b>Project#:</b> AP200506045	

<b>Company:</b> Superior Bowen - Parkville	<b>Description:</b> Extension
<b>Location:</b> Coffey Rd	<b>Permit Type:</b> AP: IR Corrections & Amendments
<b>City:</b> Parkville	<b>Status:</b> AP: IR Unit Chief Review
<b>County:</b> Platte	<b>Received:</b> 6/10/2005
<b>Project#:</b> AP200506035	
<b>Company:</b> Allen Quarries Inc	<b>Description:</b> Rock Crushing
<b>Location:</b> Lockwood	<b>Permit Type:</b> AOP: Basic Operating Permit
<b>County:</b> Portable Plant	<b>Status:</b> AP: IR Completeness Check
<b>Project#:</b> AP200506051	<b>Received:</b> 6/13/2005
<b>Company:</b> Source Environmental Sciences, Inc	<b>Description:</b> Mobile sewer and pipeline rehabilitation facilit
<b>Location:</b> 4100 Westheimer	<b>Permit Type:</b> AP: Applicability Determination Request
<b>City:</b> Houston	<b>Status:</b> AP: Awaiting Completeness Check
<b>County:</b> Portable Plant	<b>Received:</b> 6/3/2005
<b>Project#:</b> AP200506026	
<b>Company:</b> Central Missouri Agri Service	<b>Description:</b> North Storage Area
<b>Location:</b> 211 N. Lyon	<b>Permit Type:</b> AP: Sec 5 & 6: Deminimis and Minor
<b>City:</b> Marshall	<b>Status:</b> AP: Technical Review
<b>County:</b> Saline	<b>Received:</b> 6/23/2005
<b>Project#:</b> AP200506070	
<b>Company:</b> Cash Cleaners	<b>Description:</b> General OP - Dry Cleaner
<b>Location:</b> 101 S Main	<b>Permit Type:</b> AOP: Basic Operating Permit Renewal
<b>City:</b> Memphis	<b>Status:</b> AP: IR Completeness Check
<b>County:</b> Scotland	<b>Received:</b> 6/10/2005
<b>Project#:</b> AP200506036	
<b>Company:</b> Bootheel Area Humane Society	<b>Description:</b> Small Incinerator
<b>Location:</b> 1900 Compress	<b>Permit Type:</b> AP: Applicability Determination Request
<b>City:</b> Sikeston	<b>Status:</b> AP: Technical Review
<b>County:</b> Scott	<b>Received:</b> 6/21/2005
<b>Project#:</b> AP200506074	
<b>Company:</b> Mark Twain Redi-Mix	<b>Description:</b> Concrete - Portable to Stationary
<b>Location:</b> Ecology Dr	<b>Permit Type:</b> AP: IR Sec 5 & 6: Deminimis and Minor
<b>City:</b> St. Peters	<b>Status:</b> AP: IR Completeness Check
<b>County:</b> St. Charles	<b>Received:</b> 6/7/2005
<b>Project#:</b> AP200506018	
<b>Company:</b> Flat River Glass Co	<b>Description:</b> Furnace Repair Project
<b>Location:</b> 1000 TAYLOR AVE	<b>Permit Type:</b> AP: Applicability Determination Request
<b>City:</b> Flat River	<b>Status:</b> AP: No Permit Required
<b>County:</b> St. Francois	<b>Received:</b> 6/13/2005
<b>Project#:</b> AP200506044	
<b>Company:</b> Chrysler Assembly Plant 1 - South	<b>Description:</b> Tub sealing addition
<b>Location:</b> 1001 N HIGHWAY DR	<b>Permit Type:</b> AOP: Part 70 Operating Permit Minor Modific
<b>City:</b> Fenton	<b>Status:</b> AP: Receive, Log, Assign
<b>County:</b> St. Louis	<b>Received:</b> 6/20/2005
<b>Project#:</b> AP200506061	
<b>Company:</b> Glory Cleaners	<b>Description:</b> General OP - Dry Cleaner
<b>Location:</b> 7 Stone Gate Center	<b>Permit Type:</b> AOP: Basic Operating Permit Renewal
<b>City:</b> Valley Park	<b>Status:</b> AP: Receive, Log, Assign
<b>County:</b> St. Louis	<b>Received:</b> 6/29/2005
<b>Project#:</b> AP200506080	
<b>Company:</b> Missouri Pass Landfill	<b>Description:</b> Landfill
<b>Location:</b> 2510 Adie Road	<b>Permit Type:</b> AOP: Part 70 Operating Permit Renewal
<b>City:</b> Maryland Heights	<b>Status:</b> AP: Receive, Log, Assign
<b>County:</b> St. Louis	<b>Received:</b> 6/6/2005
<b>Project#:</b> AP200506030	

<b>Company:</b> Artco Reidy River Terminal	<b>Description:</b> Barge Terminal
<b>Location:</b> 4528 S BROADWAY	<b>Permit Type:</b> AOP: Basic Operating Permit Renewal
<b>City:</b> SAINT LOUIS	<b>Status:</b> AP: Receive, Log, Assign
<b>County:</b> St. Louis City	<b>Received:</b> 6/17/2005
<b>Project#:</b> AP200506056	
<b>Company:</b> Drumtech	<b>Description:</b>
<b>Location:</b> 5066 Rear Manchester	<b>Permit Type:</b> AOP: Basic Operating Permit
<b>City:</b> St. Louis	<b>Status:</b> AP: Local Agency Review
<b>County:</b> St. Louis City	<b>Received:</b> 6/6/2005
<b>Project#:</b> AP200506033	
<b>Company:</b> Goodwin Brothers Printing Co Inc	<b>Description:</b> Remove limitation
<b>Location:</b> 2613 N BROADWAY	<b>Permit Type:</b> AOP: Intermediate Operating Permit Amendme
<b>City:</b> St. Louis	<b>Status:</b> AP: Receive, Log, Assign
<b>County:</b> St. Louis City	<b>Received:</b> 6/8/2005
<b>Project#:</b> AP200506039	
<b>Company:</b> Slay Bulk Terminal	<b>Description:</b> Transfer system
<b>Location:</b> 2300 S Lennor K Sullivan	<b>Permit Type:</b> AP: Local CP
<b>City:</b> St. Louis	<b>Status:</b> AP: Permit Issued
<b>County:</b> St. Louis City	<b>Received:</b> 6/6/2005
<b>Project#:</b> AP200506029	
<b>Company:</b> Washington University - Hilltop	<b>Description:</b> Boilers
<b>Location:</b> 6740 Forest Park Pkwy	<b>Permit Type:</b> AP: Local CP
<b>City:</b> St. Louis	<b>Status:</b> AP: Permit Issued
<b>County:</b> St. Louis City	<b>Received:</b> 6/8/2005
<b>Project#:</b> AP200506038	
<b>Company:</b> APAC Brickey's Stone LLC	<b>Description:</b> Amend for co-location
<b>Location:</b> 13588 BRICKEYS RD	<b>Permit Type:</b> AP: IR Sec 5 & 6: Deminimis and Minor
<b>City:</b> Bloomsdale	<b>Status:</b> AP: Final Clerical Prep
<b>County:</b> Ste. Genevieve	<b>Received:</b> 6/2/2005
<b>Project#:</b> AP200506007	
<b>Company:</b> Midwest Stone - Brickey's	<b>Description:</b> Temporary Rock Crushing
<b>Location:</b> 13588 Brickey's rd	<b>Permit Type:</b> AP: IR Sec 5 & 6: Deminimis and Minor
<b>City:</b> Bloomsdale	<b>Status:</b> AP: Section 5 Permit Issued
<b>County:</b> Ste. Genevieve	<b>Received:</b> 6/2/2005
<b>Project#:</b> AP200506006	
<b>Company:</b> Doss & Harper Stone Co	<b>Description:</b> Add BMP and co-location, electrosu
<b>Location:</b> T30N:R09W:S17 MO Hwy 17 South	<b>Permit Type:</b> AP: IR Sec 5 & 6: Deminimis and Minor
<b>City:</b> Houston	<b>Status:</b> AP: IR Completeness Check
<b>County:</b> Texas	<b>Received:</b> 6/16/2005
<b>Project#:</b> AP200506049	
<b>Company:</b> Doss & Harper Stone Co	<b>Description:</b> Add BMPs, colocation - electrosu
<b>Location:</b> T30N:R09W:S17 MO Hwy 17 South	<b>Permit Type:</b> AP: IR Sec 5 & 6: Deminimis and Minor
<b>City:</b> Houston	<b>Status:</b> AP: IR Completeness Check
<b>County:</b> Texas	<b>Received:</b> 6/16/2005
<b>Project#:</b> AP200506050	
<b>Company:</b> Washington County Quarry Inc.	<b>Description:</b> Allow co-location
<b>Location:</b> Hwy 21 North	<b>Permit Type:</b> AP: IR Sec 5 & 6: Deminimis and Minor
<b>City:</b> Potosi	<b>Status:</b> AP: IR Completeness Check
<b>County:</b> Washington	<b>Received:</b> 6/13/2005
<b>Project#:</b> AP200506067	
<b>Company:</b> Courtney Excavating - Seymour	<b>Description:</b> Rock Crushing
<b>Location:</b> T29N:R17W:S35:SW County Hwy C 1/4 M	<b>Permit Type:</b> AP: Sec 4: Relocate to New Site
<b>City:</b> Seymour	<b>Status:</b> AP: Applicant responding to technical request
<b>County:</b> Webster	<b>Received:</b> 6/6/2005
<b>Project#:</b> AP200506008	

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<b>Company:</b>	Courtney Excavating - Seymour	<b>Description:</b>	Asphalt Recycling
<b>Location:</b>	T29N:R17W:S35:SW County Hwy C 1/4 M	<b>Permit Type:</b>	AP: Sec 4: Relocate to New Site
<b>City:</b>	Seymour	<b>Status:</b>	AP: Applicant responding to technical request
<b>County:</b>	Webster	<b>Received:</b>	6/6/2005
<b>Project#:</b>	AP200506009		

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Missouri Department of Natural Resources  
Air and Land Protection Division  
Air Pollution Control Program

**PERMIT APPLICATIONS  
COMPLETED**

	Construction Permits	Operating Permits	Total
January	30	19	49
February	41	35	76
March	87	35	122
April	45	13	58
May	71	23	94
<b>June</b>	<b>42</b>	<b>25</b>	<b>67</b>
Total	316	150	466

# Department of Natural Resources

## Air and Land Protection Division

### Permits Management System

#### Air Pollution Control Program

<b>Company:</b> Parker Funeral Service	<b>Received</b> 5/25/2005	<b>Completed</b> 6/13/2005	<b>Permit #</b> OP	<b>Days Used</b> 19
<b>Location:</b> 22 N 10TH ST	<b>Description:</b> Crematory			
<b>City:</b> Columbia	<b>Permit Type:</b> AOP: Basic Operating Permit Renewal			
<b>County:</b> Boone	<b>Status:</b> AP: Received Basic OP Issued			
<b>Project#:</b> AP200505102				
<b>Company:</b> University of Missouri - Columbia	<b>Received</b> 4/15/2005	<b>Completed</b> 6/9/2005	<b>Permit #</b>	<b>Days Used</b> 55
<b>Location:</b> 8 Research Park Dev Bldg	<b>Description:</b> Painting operation			
<b>City:</b> Columbia	<b>Permit Type:</b> AP: Applicability Determination Request			
<b>County:</b> Boone	<b>Status:</b> AP: Permit Required			
<b>Project#:</b> AP200504056				
<b>Company:</b> Johnson Controls Battery Group	<b>Received</b> 3/17/2005	<b>Completed</b> 6/17/2005	<b>Permit #</b>	<b>Days Used</b> 92
<b>Location:</b> 4722 Pear Street	<b>Description:</b> Cure Chambers			
<b>City:</b> St. Joseph	<b>Permit Type:</b> AP: Applicability Determination Request			
<b>County:</b> Buchanan	<b>Status:</b> AP: Permit Required			
<b>Project#:</b> AP200503070				
<b>Company:</b> APAC at Mertens-Auxvasse	<b>Received</b> 5/18/2005	<b>Completed</b> 6/8/2005	<b>Permit #</b> 052005-010	<b>Days Used</b> 21
<b>Location:</b> 2303 Old US Hwy 54 South	<b>Description:</b> Asphalt			
<b>City:</b> Auxvasse	<b>Permit Type:</b> AP: Sec 4: Relocate to New Site			
<b>County:</b> Callaway	<b>Status:</b> AP: Section 4 Permit Issued			
<b>Project#:</b> AP200505061				
<b>Company:</b> MO-Con Inc of Fulton	<b>Received</b> 3/2/2005	<b>Completed</b> 6/1/2005	<b>Permit #</b> 062005-002	<b>Days Used</b> 91
<b>Location:</b> 1000 Penn Ave	<b>Description:</b> Modify existing Concrete - electrosu			
<b>City:</b> Fulton	<b>Permit Type:</b> AP: IR Sec 5 & 6: Deminimis and Minor			
<b>County:</b> Callaway	<b>Status:</b> AP: Section 6 Permit Issued			
<b>Project#:</b> AP200503008				
<b>Company:</b> Tom's Cleaners	<b>Received</b> 4/14/2005	<b>Completed</b> 6/13/2005	<b>Permit #</b> OP	<b>Days Used</b> 60
<b>Location:</b> 207 E 5th St	<b>Description:</b> General OP - Dry Cleaners			
<b>City:</b> Fulton	<b>Permit Type:</b> AOP: Basic Operating Permit Renewal			
<b>County:</b> Callaway	<b>Status:</b> AP: Received Basic OP Issued			
<b>Project#:</b> AP200504051				
<b>Company:</b> Lone Star Industries	<b>Received</b> 3/7/2005	<b>Completed</b> 6/15/2005	<b>Permit #</b> 062005-005	<b>Days Used</b> 100
<b>Location:</b> 2524 South Sprigg Street	<b>Description:</b> TDF Utilization			
<b>City:</b> Cape Girardeau	<b>Permit Type:</b> AP: Temporary or Pilot Plant Permit			
<b>County:</b> Cape Girardeau	<b>Status:</b> AP: Temporary Permit Issued			
<b>Project#:</b> AP200503026				
<b>Company:</b> Rubbermaid	<b>Received</b> 3/18/2005	<b>Completed</b> 6/13/2005	<b>Permit #</b> OP	<b>Days Used</b> 87
<b>Location:</b> 1901 LEE AVE	<b>Description:</b> Metal Furniture			
<b>City:</b> Jackson	<b>Permit Type:</b> AOP: Basic Operating Permit Renewal			
<b>County:</b> Cape Girardeau	<b>Status:</b> AP: Received Basic OP Issued			
<b>Project#:</b> AP200503093				
<b>Company:</b> Wahlco	<b>Received</b> 2/22/2005	<b>Completed</b> 6/13/2005	<b>Permit #</b>	<b>Days Used</b> 111
<b>Location:</b> 5830 County Hwy V	<b>Description:</b> Diaper recycling			
<b>City:</b> Jackson	<b>Permit Type:</b> AP: Applicability Determination Request			
<b>County:</b> Cape Girardeau	<b>Status:</b> AP: No Permit Required			
<b>Project#:</b> AP200502088				

<b>Company:</b> Royal Oak Enterprises	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> US Hwy 60 W of Ellsinore	6/10/2005	6/30/2005	072003-013	20
<b>City:</b> Ellsinore	<b>Description:</b> Concrete-exceed 2 years			
<b>County:</b> Carter	<b>Permit Type:</b> AP: IR Applicability Determination Request			
<b>Project#:</b> AP200506041	<b>Status:</b> AP: No Permit Required			
<b>Company:</b> C.B. Asphalt Hwy 71 Job	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> US Hwy 71	5/31/2005	6/10/2005		10
<b>City:</b> Harrisonville	<b>Description:</b> Asphalt			
<b>County:</b> Cass	<b>Permit Type:</b> AP: Sec 4: Relocate to New Site			
<b>Project#:</b> AP200505110	<b>Status:</b> AP: Section 4 Permit Issued			
<b>Company:</b> National Weather Service	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 1803 N 7 Hwy	4/1/2005	6/9/2005		69
<b>City:</b> Pleasant Hill	<b>Description:</b> Emergency Generators			
<b>County:</b> Cass	<b>Permit Type:</b> AP: Sec 5 & 6: Deminimis and Minor			
<b>Project#:</b> AP200504004	<b>Status:</b> AP: No Permit Required			
<b>Company:</b> Williams Natural Gas - Peculiar	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 24304 SOUTH HARPER	6/11/2001	6/28/2005	OP 2005-008	1478
<b>City:</b> Peculiar	<b>Description:</b> Natural Gas Pumping			
<b>County:</b> Cass	<b>Permit Type:</b> AOP: Intermediate Operating Permit			
<b>Project#:</b> AP200106036	<b>Status:</b> AP: Permit Issued			
<b>Company:</b> Algoa Prison Complex	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 8501 Fence Road	3/3/2005	6/8/2005		97
<b>City:</b> Jefferson City	<b>Description:</b> Painting Area			
<b>County:</b> Cole	<b>Permit Type:</b> AP: Applicability Determination Request			
<b>Project#:</b> AP200503016	<b>Status:</b> AP: No Permit Required			
<b>Company:</b> Farmers Concrete Co	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 2916 N Shamrock	5/18/2005	6/10/2005	052005-004A	23
<b>City:</b> Jefferson City	<b>Description:</b> Baghouse Language			
<b>County:</b> Cole	<b>Permit Type:</b> AP: IR Corrections & Amendments			
<b>Project#:</b> AP200505074	<b>Status:</b> AP: Amendment Approved			
<b>Company:</b> Modine Manufacturing Company	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 1502 S. Country Club Dr	4/20/2005	6/9/2005		50
<b>City:</b> Jefferson City	<b>Description:</b> Welding machine			
<b>County:</b> Cole	<b>Permit Type:</b> AP: Sec 5 & 6: Deminimis and Minor			
<b>Project#:</b> AP200504066	<b>Status:</b> AP: No Permit Required			
<b>Company:</b> Western MO Correctional Center	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 609 E Pence Rd	3/22/2002	6/13/2005	OP	1179
<b>City:</b> Cameron	<b>Description:</b> Rehabilitation Center			
<b>County:</b> Dekalb	<b>Permit Type:</b> AOP: Basic Operating Permit			
<b>Project#:</b> AP200203121	<b>Status:</b> AP: Received Basic OP Issued			
<b>Company:</b> B & B Cotton Company	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 316 Morgan St	4/4/2005	6/1/2005	0494-007A	58
<b>City:</b> Campbell	<b>Description:</b> Emission factor changes			
<b>County:</b> Dunklin	<b>Permit Type:</b> AP: Corrections & Amendments			
<b>Project#:</b> AP200504005	<b>Status:</b> AP: Amendment Approved			
<b>Company:</b> Marble Decor, Inc	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 70 HI-LINE INDUSTRIAL DR	1/18/2005	6/9/2005	092001-017A	142
<b>City:</b> Union	<b>Description:</b> OP Requirement			
<b>County:</b> Franklin	<b>Permit Type:</b> AP: Corrections & Amendments			
<b>Project#:</b> AP200502066	<b>Status:</b> AP: Application Denied			



<b>Company:</b> Newly Weds Foods	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 412 W Flottman Rd	10/25/2002	6/21/2005	OP	970
<b>City:</b> Gerald	<b>Description:</b> Spice Grinding			
<b>County:</b> Franklin	<b>Permit Type:</b> AOP: Applicability Determination Requests			
<b>Project#:</b> AP200210154	<b>Status:</b> AP: No Permit Required			
<b>Company:</b> The Meramec Group	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 338 Ramsey St	4/8/2005	6/13/2005	062005-003	66
<b>City:</b> Sullivan	<b>Description:</b> Automated Paint Operation			
<b>County:</b> Franklin	<b>Permit Type:</b> AP: Sec 5 & 6: Deminimis and Minor			
<b>Project#:</b> AP200504022	<b>Status:</b> AP: Section 5 Permit Issued			
<b>Company:</b> Wash Days and Nu-Way Cleaners	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 575 Wal-Mart Dr	4/25/2005	6/13/2005	OP	49
<b>City:</b> Sullivan	<b>Description:</b> General OP - Dry Cleaner			
<b>County:</b> Franklin	<b>Permit Type:</b> AOP: Basic Operating Permit			
<b>Project#:</b> AP200504085	<b>Status:</b> AP: Received Basic OP Issued			
<b>Company:</b> Ozark Asphalt - Curtman site	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> County Hwy Y	6/13/2005	6/16/2005	0488-006	3
<b>City:</b> Owensville	<b>Description:</b> Asphalt			
<b>County:</b> Gasconade	<b>Permit Type:</b> AP: Sec 4: Relocate Approved Site			
<b>Project#:</b> AP200506047	<b>Status:</b> AP: Section 4 Permit Issued			
<b>Company:</b> MFA Inc	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 408 South Birch	5/13/2005	6/9/2005	OP	27
<b>City:</b> Albany	<b>Description:</b> Grain and Fertilizer General OP			
<b>County:</b> Gentry	<b>Permit Type:</b> AOP: Basic Operating Permit Renewal			
<b>Project#:</b> AP200505070	<b>Status:</b> AP: Received Basic OP Issued			
<b>Company:</b> Conco Quarries Inc	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> US Hwy 160 West	11/8/2002	6/13/2005	OP	948
<b>City:</b> Willard	<b>Description:</b> General OP - Rock Crushing			
<b>County:</b> Greene	<b>Permit Type:</b> AOP: Basic Operating Permit Renewal			
<b>Project#:</b> AP200211088	<b>Status:</b> AP: Received Basic OP Issued			
<b>Company:</b> Springfield Sanitary Landfill	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 3545 W Farm Road 34	12/8/2003	6/28/2005	OP	568
<b>City:</b> Springfield	<b>Description:</b> Gas collection, flare			
<b>County:</b> Greene	<b>Permit Type:</b> AOP: Part 70 Operating Permit Off-Permit Ch			
<b>Project#:</b> AP200401036	<b>Status:</b> AP: Closed out, per policy			
<b>Company:</b> Rival Company	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 1001 Golden Dr	10/16/2002	6/15/2005		973
<b>City:</b> Clinton	<b>Description:</b> Termination of manufacturing operations (no			
<b>County:</b> Henry	<b>Permit Type:</b> AOP: Applicability Determination Requests			
<b>Project#:</b> AP200210088	<b>Status:</b> AP: No Permit Required			
<b>Company:</b> Golden Triangle Energy	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 15053 Hwy 111	5/4/2005	6/13/2005	052003-104A	40
<b>City:</b> Craig	<b>Description:</b> Extension, tank changes			
<b>County:</b> Holt	<b>Permit Type:</b> AP: Corrections & Amendments			
<b>Project#:</b> AP200505020	<b>Status:</b> AP: Permit Required			
<b>Company:</b> Royal Oak Charcoal - Craig Site	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> T27N:R07W:S14 MO Hwy 17 0.25 Mi N of U	12/9/2003	6/27/2005	OP 1999-044	566
<b>City:</b> Mountain View	<b>Description:</b> Terminate P70-now permanently closed.			
<b>County:</b> Howell	<b>Permit Type:</b> AOP: Part 70 Operating Permit Admin. Amen			
<b>Project#:</b> AP200312019	<b>Status:</b> AP: Operating Permit Terminated			

<b>Company:</b> Allied Waste Ind Sanitary Landfill	<b>Received</b> 5/27/2005	<b>Completed</b> 6/22/2005	<b>Permit #</b> 1034A	<b>Days Used</b> 26
<b>Location:</b> 8300 INDIANA AVE	<b>Description:</b> Flare Changes			
<b>City:</b> Kansas City	<b>Permit Type:</b> AP: Local CP			
<b>County:</b> Jackson	<b>Status:</b> AP: Permit Issued			
<b>Project#:</b> AP200506012				
<b>Company:</b> Hallmark Cards, Inc	<b>Received</b> 6/9/2005	<b>Completed</b> 6/22/2005	<b>Permit #</b> 1110	<b>Days Used</b> 13
<b>Location:</b> 2501 MCGEE ST	<b>Description:</b> Press			
<b>City:</b> Kansas City	<b>Permit Type:</b> AP: Local CP			
<b>County:</b> Jackson	<b>Status:</b> AP: Permit Issued			
<b>Project#:</b> AP200506040				
<b>Company:</b> LaFarge Corporation - Sugar Creek	<b>Received</b> 4/4/2005	<b>Completed</b> 6/9/2005	<b>Permit #</b>	<b>Days Used</b> 66
<b>Location:</b> 4201 N RIVER BLVD	<b>Description:</b> Baghouse changes			
<b>City:</b> Sugar Creek	<b>Permit Type:</b> AP: Applicability Determination Request			
<b>County:</b> Jackson	<b>Status:</b> AP: No Permit Required			
<b>Project#:</b> AP200504017				
<b>Company:</b> LaFarge North America	<b>Received</b> 5/12/2005	<b>Completed</b> 6/13/2005	<b>Permit #</b> OP	<b>Days Used</b> 32
<b>Location:</b> 16400 E KENTUCKY RD	<b>Description:</b> Rock Crushing			
<b>City:</b> Independence	<b>Permit Type:</b> AOP: Basic Operating Permit			
<b>County:</b> Jackson	<b>Status:</b> AP: Received Basic OP Issued			
<b>Project#:</b> AP200505081				
<b>Company:</b> Little Blue Valley Sewer District	<b>Received</b> 6/17/2005	<b>Completed</b> 6/27/2005	<b>Permit #</b> OP	<b>Days Used</b> 10
<b>Location:</b> 21208 E OLD ATHERTON RD	<b>Description:</b> Wastewater Treatment			
<b>City:</b> Independence	<b>Permit Type:</b> AOP: Basic Operating Permit Renewal			
<b>County:</b> Jackson	<b>Status:</b> AP: Received Basic OP Issued			
<b>Project#:</b> AP200506055				
<b>Company:</b> Fred Weber, Inc	<b>Received</b> 5/19/2005	<b>Completed</b> 6/7/2005	<b>Permit #</b> 052005-007A	<b>Days Used</b> 19
<b>Location:</b> Buck Knob Road	<b>Description:</b> Fuel Evaluation			
<b>City:</b> FESTUS	<b>Permit Type:</b> AP: IR Corrections & Amendments			
<b>County:</b> Jefferson	<b>Status:</b> AP: Amendment Approved			
<b>Project#:</b> AP200505065				
<b>Company:</b> Marlo Coil Nuclear Cooling Inc	<b>Received</b> 3/4/2005	<b>Completed</b> 6/13/2005	<b>Permit #</b>	<b>Days Used</b> 101
<b>Location:</b> 6060 HIGHWAY PP	<b>Description:</b> Waste Water Evaporator			
<b>City:</b> High Ridge	<b>Permit Type:</b> AP: Applicability Determination Request			
<b>County:</b> Jefferson	<b>Status:</b> AP: No Permit Required			
<b>Project#:</b> AP200503032				
<b>Company:</b> Detroit Tool Metal Products Co	<b>Received</b> 7/6/2004	<b>Completed</b> 6/27/2005	<b>Permit #</b> OP 1999-202	<b>Days Used</b> 356
<b>Location:</b> 100 Carr Road	<b>Description:</b> Metal Parts			
<b>City:</b> Lebanon	<b>Permit Type:</b> AOP: Part 70 Operating Permit Renewal			
<b>County:</b> Laclede	<b>Status:</b> AP: Operating Permit Terminated			
<b>Project#:</b> AP200407016				
<b>Company:</b> Fred Weber - Old 79 Foley Site	<b>Received</b> 5/23/2005	<b>Completed</b> 6/17/2005	<b>Permit #</b>	<b>Days Used</b> 25
<b>Location:</b> 399 Old Mo Hwy 79	<b>Description:</b> Rock Crushing - BMP			
<b>City:</b> Foley	<b>Permit Type:</b> AP: Sec 4: Relocate to New Site			
<b>County:</b> Lincoln	<b>Status:</b> AP: Section 4 Permit Issued			
<b>Project#:</b> AP200505085				
<b>Company:</b> Magruder Limestone Inc	<b>Received</b> 4/13/2005	<b>Completed</b> 6/1/2005	<b>Permit #</b>	<b>Days Used</b> 49
<b>Location:</b> 330 County Hwy E	<b>Description:</b> Add tertiary crusher			
<b>City:</b> Silex	<b>Permit Type:</b> AP: IR Applicability Determination Request			
<b>County:</b> Lincoln	<b>Status:</b> AP: No Permit Required			
<b>Project#:</b> AP200504043				

<b>Company:</b> Monroe City Ready Mix	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 622 5th St	3/18/2005	6/21/2005	062005-008	95
<b>City:</b> Monroe City	<b>Description:</b> Make Portable stationary			
<b>County:</b> Marion	<b>Permit Type:</b> AP: IR Sec 5 & 6: Dminimis and Minor			
<b>Project#:</b> AP200503073	<b>Status:</b> AP: Section 5 Permit Issued			
<b>Company:</b> Central Redi-Mix LLC	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> T21N:R31W:S21:SW:NW Little Missouri Holl	4/1/2005	6/21/2005	062005-010	81
<b>City:</b> Jane	<b>Description:</b> Concrete - electrosb - BMP			
<b>County:</b> McDonald	<b>Permit Type:</b> AP: IR Sec 5 & 6: Dminimis and Minor			
<b>Project#:</b> AP200504003	<b>Status:</b> AP: Section 5 Permit Issued			
<b>Company:</b> Hedges Funeral Home	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> County Hwy D	5/25/2005	6/13/2005	OP	19
<b>City:</b> Osage Beach	<b>Description:</b> Crematory			
<b>County:</b> Miller	<b>Permit Type:</b> AOP: Basic Operating Permit Renewal			
<b>Project#:</b> AP200505101	<b>Status:</b> AP: Received Basic OP Issued			
<b>Company:</b> Central Stone Company (CS04)	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> County Rd 875	7/22/2002	6/27/2005	OP	1071
<b>City:</b> Paris	<b>Description:</b> OP requirement for portable site			
<b>County:</b> Monroe	<b>Permit Type:</b> AOP: Applicability Determination Requests			
<b>Project#:</b> AP200207143	<b>Status:</b> AP: No Permit Required			
<b>Company:</b> C.B. Asphalt - Marston	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> Hwy AD	6/2/2005	6/17/2005	0896-008	15
<b>City:</b> Marston	<b>Description:</b> Asphalt			
<b>County:</b> New Madrid	<b>Permit Type:</b> AP: Sec 4: Relocate to New Site			
<b>Project#:</b> AP200506002	<b>Status:</b> AP: Section 4 Permit Issued			
<b>Company:</b> Gulf States Paper Corporation	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 4200 E 32ND ST	5/26/2005	6/13/2005		18
<b>City:</b> Joplin	<b>Description:</b> OP modification			
<b>County:</b> Newton	<b>Permit Type:</b> AOP: Basic Operating Permit Renewal			
<b>Project#:</b> AP200505107	<b>Status:</b> AP: Received Basic OP Issued			
<b>Company:</b> Protein Solutions, LLC	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 3200 E 32nd st	5/2/2005	6/30/2005		59
<b>City:</b> Joplin	<b>Description:</b> Dry Poultry Protein			
<b>County:</b> Newton	<b>Permit Type:</b> AP: Sec 5 & 6: Dminimis and Minor			
<b>Project#:</b> AP200505007	<b>Status:</b> AP: No Permit Required			
<b>Company:</b> Maryville Treatment Center	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 30227 US Hwy 136	3/23/2005	6/21/2005	OP	90
<b>City:</b> Maryville	<b>Description:</b> Boiler applicability			
<b>County:</b> Nodaway	<b>Permit Type:</b> AOP: Applicability Determination Requests			
<b>Project#:</b> AP200503087	<b>Status:</b> AP: No Permit Required			
<b>Company:</b> Mertens Construction Co Inc	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> US Hwy 63 S	9/24/2004	6/20/2005	062005-006	269
<b>City:</b> Westphalia	<b>Description:</b> Add scenarios-electrosb			
<b>County:</b> Osage	<b>Permit Type:</b> AP: IR Sec 5 & 6: Dminimis and Minor			
<b>Project#:</b> AP200409073	<b>Status:</b> AP: Section 6 Permit Issued			
<b>Company:</b> MFA Inc	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> Landfill Rd	3/7/2005	6/13/2005	062005-004	98
<b>City:</b> Caruthersville	<b>Description:</b> Barge Receiving Dock			
<b>County:</b> Pemiscot	<b>Permit Type:</b> AP: Sec 5 & 6: Dminimis and Minor			
<b>Project#:</b> AP200503019	<b>Status:</b> AP: Section 5 Permit Issued			

<b>Company:</b> Rolla Municipal Utilities	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 102 W 9TH ST	10/17/2003	6/28/2005	OP	620
<b>City:</b> Rolla	<b>Description:</b>	Add generators		
<b>County:</b> Phelps	<b>Permit Type:</b>	AOP: Intermediate Operating Permit Amendm		
<b>Project#:</b> AP200310064	<b>Status:</b>	AP: Closed out, per policy		
<b>Company:</b> Holcim (US) Inc.	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 14744 MO Hwy 79 N	4/20/2005	6/30/2005		71
<b>City:</b> Clarksville	<b>Description:</b>	Burner Pipe		
<b>County:</b> Pike	<b>Permit Type:</b>	AP: Applicability Determination Request		
<b>Project#:</b> AP200504067	<b>Status:</b>	AP: No Permit Required		
<b>Company:</b> Ash Grove Aggregates - Bolivar Quarry	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> T34N:R23W:S28,29 MO Hwy 13	2/18/2005	6/21/2005	062005-009	123
<b>City:</b> Bolivar	<b>Description:</b>	Generic BMP quarry - electrosb		
<b>County:</b> Polk	<b>Permit Type:</b>	AP: IR Sec 5 & 6: Deminimis and Minor		
<b>Project#:</b> AP200502090	<b>Status:</b>	AP: Section 5 Permit Issued		
<b>Company:</b> Hutchens Construction Co	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 1007 Main	2/17/2005	6/13/2005	0998-026	116
<b>City:</b> Cassville	<b>Description:</b>	Classifier Permitting applicability		
<b>County:</b> Portable Plant	<b>Permit Type:</b>	AP: IR Applicability Determination Request		
<b>Project#:</b> AP200502072	<b>Status:</b>	AP: Permit Required		
<b>Company:</b> Liquid Recovery Inc	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 401 W Main St	4/13/2005	6/1/2005		49
<b>City:</b> Louisville	<b>Description:</b>	Solvent Recycling		
<b>County:</b> Portable Plant	<b>Permit Type:</b>	AP: Applicability Determination Request		
<b>Project#:</b> AP200504055	<b>Status:</b>	AP: No Permit Required		
<b>Company:</b> Continental Cement Company - Ilasco	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 10107 MO Hwy 79	5/6/2005	6/30/2005		55
<b>City:</b> Hannibal	<b>Description:</b>	Waste Storage tank		
<b>County:</b> Ralls	<b>Permit Type:</b>	AP: Applicability Determination Request		
<b>Project#:</b> AP200505033	<b>Status:</b>	AP: No Permit Required		
<b>Company:</b> MFA Inc	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> MO Hwy 77 South	5/17/2005	6/9/2005	OP	23
<b>City:</b> Benton	<b>Description:</b>	General OP - Fertilizer		
<b>County:</b> Scott	<b>Permit Type:</b>	AOP: Basic Operating Permit Renewal		
<b>Project#:</b> AP200505083	<b>Status:</b>	AP: Received Basic OP Issued		
<b>Company:</b> Sikeston Power Station	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 1551 W. Wakefield Street	3/7/2005	6/13/2005		98
<b>City:</b> Sikeston	<b>Description:</b>	NOx controls on boiler		
<b>County:</b> Scott	<b>Permit Type:</b>	AP: Applicability Determination Request		
<b>Project#:</b> AP200503053	<b>Status:</b>	AP: No Permit Required		
<b>Company:</b> Craig Industries	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> County Rd 341 SW OF County Hwys JJ & YY	4/1/2005	6/10/2005	OP	70
<b>City:</b> Summersville	<b>Description:</b>	Responsible Official Change		
<b>County:</b> Shannon	<b>Permit Type:</b>	AOP: Part 70 Operating Permit Admin. Amen		
<b>Project#:</b> AP200504024	<b>Status:</b>	AP: Amendment Approved		
<b>Company:</b> S J Pottery	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 425 N King	11/3/2003	6/13/2005		588
<b>City:</b> Bethel	<b>Description:</b>	Wood-fired kiln		
<b>County:</b> Shelby	<b>Permit Type:</b>	AP: Applicability Determination Request		
<b>Project#:</b> AP200501103	<b>Status:</b>	AP: No Permit Required		

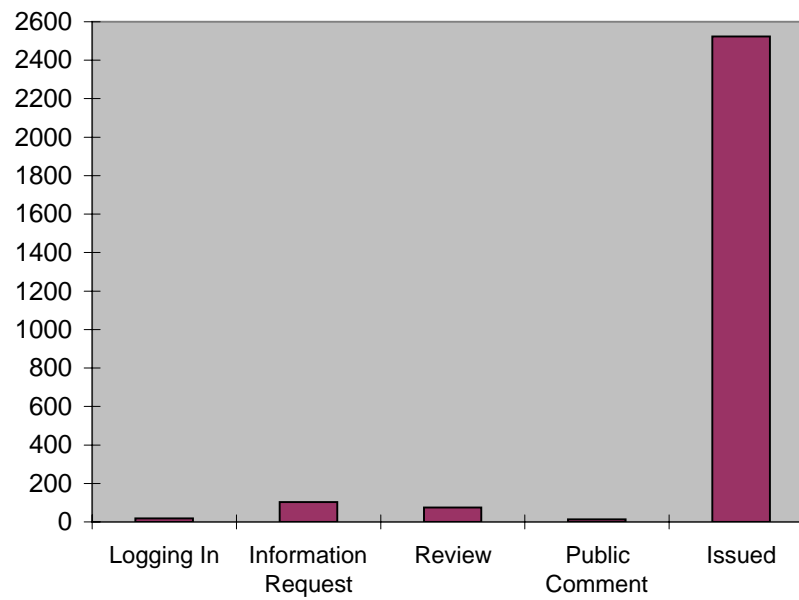
<b>Company:</b> LaFarge North America - St. Charles	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 2000 S RIVER RD	5/2/2005	6/10/2005	062004-008	39
<b>City:</b> SAINT CHARLES	<b>Description:</b>	Pit haul road		
<b>County:</b> St. Charles	<b>Permit Type:</b>	AP: IR Corrections & Amendments		
<b>Project#:</b> AP200505005	<b>Status:</b>	AP: Amendment Approved		
<b>Company:</b> MAACO Collision Repair	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 7952 Veterans Memorial Parkway	4/1/2005	6/9/2005		69
<b>City:</b> St. Peters	<b>Description:</b>	Body Repair and Refinishing		
<b>County:</b> St. Charles	<b>Permit Type:</b>	AP: Applicability Determination Request		
<b>Project#:</b> AP200504011	<b>Status:</b>	AP: No Permit Required		
<b>Company:</b> Marine Technology	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 165 Enterprise Dr	1/13/2005	6/11/2005		149
<b>City:</b> Wentzville	<b>Description:</b>	Boats		
<b>County:</b> St. Charles	<b>Permit Type:</b>	AP: Sec 5 & 6: Deminimis and Minor		
<b>Project#:</b> AP200501038	<b>Status:</b>	AP: No Permit Required		
<b>Company:</b> National Weather Service	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 12 Missouri Res. Park Dr	4/1/2005	6/9/2005		69
<b>City:</b> St. Charles	<b>Description:</b>	Emergency Generators		
<b>County:</b> St. Charles	<b>Permit Type:</b>	AP: Sec 5 & 6: Deminimis and Minor		
<b>Project#:</b> AP200504090	<b>Status:</b>	AP: No Permit Required		
<b>Company:</b> O'Fallon Casting, LLC	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 600 Cannonball Lane	4/22/2005	6/8/2005		47
<b>City:</b> O'Fallon	<b>Description:</b>	Replace Dust collector		
<b>County:</b> St. Charles	<b>Permit Type:</b>	AP: Applicability Determination Request		
<b>Project#:</b> AP200504094	<b>Status:</b>	AP: No Permit Required		
<b>Company:</b> Ash Grove Aggretates - Osceolo	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> MO Hwy 82	3/11/2005	6/1/2005	062005-001	82
<b>City:</b> Osceola	<b>Description:</b>	Quarry - BMP - electrosb		
<b>County:</b> St. Clair	<b>Permit Type:</b>	AP: IR Sec 5 & 6: Deminimis and Minor		
<b>Project#:</b> AP200503044	<b>Status:</b>	AP: Section 5 Permit Issued		
<b>Company:</b> Farmington Light & Power	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 110 W Columbia St	12/3/2001	6/22/2005	OP	1297
<b>City:</b> Farmington	<b>Description:</b>	Power Generation		
<b>County:</b> St. Francois	<b>Permit Type:</b>	AOP: Intermediate Operating Permit		
<b>Project#:</b> AP200112010	<b>Status:</b>	AP: OP Application Replaced by New Submi		
<b>Company:</b> Flat River Glass Co	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 1000 TAYLOR AVE	6/13/2005	6/30/2005		17
<b>City:</b> Flat River	<b>Description:</b>	Furnace Repair Project		
<b>County:</b> St. Francois	<b>Permit Type:</b>	AP: Applicability Determination Request		
<b>Project#:</b> AP200506044	<b>Status:</b>	AP: No Permit Required		
<b>Company:</b> Edward Jones	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 122555 Manchester	5/31/2005	6/23/2005	6939-6940	23
<b>City:</b> St. Louis	<b>Description:</b>	Diesel Generator		
<b>County:</b> St. Louis	<b>Permit Type:</b>	AP: Local CP		
<b>Project#:</b> AP200506015	<b>Status:</b>	AP: Permit Issued		
<b>Company:</b> Packaging Concepts Inc	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 9832 Evergreen Industrial Dr	5/31/2005	6/23/2005	6927	23
<b>City:</b> Green Park	<b>Description:</b>	Printing Press		
<b>County:</b> St. Louis	<b>Permit Type:</b>	AP: Local CP		
<b>Project#:</b> AP200506017	<b>Status:</b>	AP: Permit Issued		

<b>Company:</b> American Commercial Terminals	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 5500 Hall	1/22/2004	6/22/2005	OP	517
<b>City:</b> St. Louis	<b>Description:</b>	Coal Transfer		
<b>County:</b> St. Louis City	<b>Permit Type:</b>	AOP: Basic Operating Permit Renewal		
<b>Project#:</b> AP200401097	<b>Status:</b>	AP: Operating Permit Issued		
<b>Company:</b> Anheuser - Busch, Inc.	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 1 BUSCH PL	5/16/2005	6/23/2005	97-02-016PM2	38
<b>City:</b> St. Louis	<b>Description:</b>	Coding printer		
<b>County:</b> St. Louis City	<b>Permit Type:</b>	AP: Local CP		
<b>Project#:</b> AP200505115	<b>Status:</b>	AP: Permit Issued		
<b>Company:</b> Astaris - (Solutia-Monsanto)	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 8201 IDAHO AVE	12/15/2004	6/27/2005	OP2004-005	194
<b>City:</b> St. Louis	<b>Description:</b>	Responsible Official Change		
<b>County:</b> St. Louis City	<b>Permit Type:</b>	AOP: Part 70 Operating Permit Admin. Amen		
<b>Project#:</b> AP200412063	<b>Status:</b>	AP: Amendment Approved		
<b>Company:</b> Brenntag Mid-South, Inc	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 139 E Soper	5/16/2005	6/23/2005		38
<b>City:</b> St. Louis	<b>Description:</b>	Tank Removal		
<b>County:</b> St. Louis City	<b>Permit Type:</b>	AP: Local CP		
<b>Project#:</b> AP200505112	<b>Status:</b>	AP: Permit Issued		
<b>Company:</b> JW Aluminum	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 6100 S BROADWAY	4/4/2005	6/23/2005	OP	80
<b>City:</b> St. Louis	<b>Description:</b>	Controls		
<b>County:</b> St. Louis City	<b>Permit Type:</b>	AOP: Part 70 Operating Permit Off-Permit Ch		
<b>Project#:</b> AP200506034	<b>Status:</b>	AP: Request Approved		
<b>Company:</b> New World Pasta	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 611 E Marceau	5/16/2005	6/23/2005	04-06-011A	38
<b>City:</b> St. Louis	<b>Description:</b>	Recordkeeping		
<b>County:</b> St. Louis City	<b>Permit Type:</b>	AP: Local CP		
<b>Project#:</b> AP200505113	<b>Status:</b>	AP: Permit Issued		
<b>Company:</b> Slay Bulk Terminal	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 2300 S Lennor K Sullivan	6/6/2005	6/29/2005	04-04-008PM	23
<b>City:</b> St. Louis	<b>Description:</b>	Transfer system		
<b>County:</b> St. Louis City	<b>Permit Type:</b>	AP: Local CP		
<b>Project#:</b> AP200506029	<b>Status:</b>	AP: Permit Issued		
<b>Company:</b> U S Paint Corporation	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 831 S 21ST ST	5/16/2005	6/23/2005	98-08-055A	38
<b>City:</b> St. Louis	<b>Description:</b>	New solvent		
<b>County:</b> St. Louis City	<b>Permit Type:</b>	AP: Local CP		
<b>Project#:</b> AP200505114	<b>Status:</b>	AP: Permit Issued		
<b>Company:</b> Washington Univ. Med School - Boiler	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 660 S EUCLID AVE	1/24/2005	6/27/2005	OP	154
<b>City:</b> St. Louis	<b>Description:</b>			
<b>County:</b> St. Louis City	<b>Permit Type:</b>	AOP: Part 70 Operating Permit Admin. Amen		
<b>Project#:</b> AP200502019	<b>Status:</b>	AP: Amendment Approved		
<b>Company:</b> Washington University - Hilltop	<b>Received</b>	<b>Completed</b>	<b>Permit #</b>	<b>Days Used</b>
<b>Location:</b> 6740 Forest Park Pkwy	6/8/2005	6/29/2005	05-05-003	21
<b>City:</b> St. Louis	<b>Description:</b>	Boilers		
<b>County:</b> St. Louis City	<b>Permit Type:</b>	AP: Local CP		
<b>Project#:</b> AP200506038	<b>Status:</b>	AP: Permit Issued		

<b>Company:</b> Midwest Stone - Brickey's	<b>Received</b> 6/2/2005	<b>Completed</b> 6/27/2005	<b>Permit #</b> 062005-012	<b>Days Used</b> 25
<b>Location:</b> 13588 Brickey's rd	<b>Description:</b> Temporary Rock Crushing			
<b>City:</b> Bloomsdale	<b>Permit Type:</b> AP: IR Sec 5 & 6: Deminimis and Minor			
<b>County:</b> Ste. Genevieve	<b>Status:</b> AP: Section 5 Permit Issued			
<b>Project#:</b> AP200506006				
<b>Company:</b> MFA Agri Service - Bernie	<b>Received</b> 5/23/2005	<b>Completed</b> 6/13/2005	<b>Permit #</b> OP	<b>Days Used</b> 21
<b>Location:</b> 311 N. Drake	<b>Description:</b> General OP - Grain and Fertilizer			
<b>City:</b> Bernie	<b>Permit Type:</b> AOP: Basic Operating Permit Renewal			
<b>County:</b> Stoddard	<b>Status:</b> AP: Received Basic OP Issued			
<b>Project#:</b> AP200505097				
<b>Company:</b> MFA Inc	<b>Received</b> 5/17/2005	<b>Completed</b> 6/13/2005	<b>Permit #</b> OP	<b>Days Used</b> 27
<b>Location:</b> Oak St at South St	<b>Description:</b> General OP - Grain and Fertilzier			
<b>City:</b> Advance	<b>Permit Type:</b> AOP: Basic Operating Permit Renewal			
<b>County:</b> Stoddard	<b>Status:</b> AP: Received Basic OP Issued			
<b>Project#:</b> AP200505082				
<b>Company:</b> W. W. Wood Products, Inc.	<b>Received</b> 2/28/2005	<b>Completed</b> 6/21/2005	<b>Permit #</b> 062005-007	<b>Days Used</b> 113
<b>Location:</b> 10331 Stanley Street	<b>Description:</b> Topcoat and finishing operation			
<b>City:</b> Dudley	<b>Permit Type:</b> AP: Sec 5 & 6: Deminimis and Minor			
<b>County:</b> Stoddard	<b>Status:</b> AP: Section 6 Permit Issued			
<b>Project#:</b> AP200502104				
<b>Company:</b> Capital Quarries - High Hill Quarry	<b>Received</b> 5/31/2005	<b>Completed</b> 6/3/2005	<b>Permit #</b>	<b>Days Used</b> 3
<b>Location:</b> 1164 TREE FARM RD	<b>Description:</b> Rock Crushing			
<b>City:</b> High Hill	<b>Permit Type:</b> AP: Sec 4: Relocate Approved Site			
<b>County:</b> Warren	<b>Status:</b> AP: Section 4 Permit Issued			
<b>Project#:</b> AP200505108				
<b>Company:</b> Seminole Stone, Inc	<b>Received</b> 12/17/2004	<b>Completed</b> 6/27/2005	<b>Permit #</b> 062005-011	<b>Days Used</b> 192
<b>Location:</b> County Hwy D	<b>Description:</b> Add pugmill (cold mix asphalt) to existing inst			
<b>City:</b> Shook	<b>Permit Type:</b> AP: IR Sec 5 & 6: Deminimis and Minor			
<b>County:</b> Wayne	<b>Status:</b> AP: Section 5 Permit Issued			
<b>Project#:</b> AP200412073				

## Operating Permit Progress Report as of 07-01-2005

		Permit Log In	Info Requests	APCP Review	Public Review	Issued	Total
Applicability Determination Requests	Subtotal	1	18	3	0	321	343
	% of total	0%	5%	1%	0%	94%	13%
Basic Permits	Subtotal	8	21	6	0	860	895
	% of total	1%	2%	1%	0%	96%	33%
Intermediate Permits	Subtotal	2	6	14	2	305	329
	% of total	1%	2%	4%	1%	93%	12%
Part 70 Permits	Subtotal	0	13	17	7	440	477
	% of total	0%	3%	4%	1%	92%	17%
Phase II Acid Rain Permits	Subtotal	0	1	1	0	50	52
	% of total	0%	2%	2%	0%	96%	2%
Local Permits	Subtotal	0	0	0	0	205	205
	% of total	0%	0%	0%	0%	100%	8%
Permit Modifications	Subtotal	7	44	34	5	342	432
	% of total	2%	10%	8%	1%	79%	16%
All Permits	Total	18	103	75	14	2523	2733
	% of total	1%	4%	3%	1%	92%	





# **RULE AND SIP AGENDA**

**July 21, 2005**  
**Poplar Bluff, MO**

## **ACTIONS FOR PUBLIC HEARING:**

- \* 10 CSR 10-1.030 (new rule) Air Conservation Commission Appeals and Requests for Hearings

This proposed rule contains all procedural regulations for all contested cases heard by the commission or assigned to a hearing officer by the commission. The rule is a product of the Commissioner's Core Workgroup that was established to develop and recommend uniform policies and procedures to the state's environmental commissions for the conducting business on contested cases in a manner that promotes accessibility, transparency, predictability, consistency, and fairness to all affected parties.

- \* 10 CSR 10-6.110 (amendment) Submission of Emission Data, Emission Fees and Process Information

This proposed amendment will establish the emission fee for Missouri facilities as required annually by 643.070 and 643.079, RSMo. The air emission fee for calendar year 2005 is proposed to be increased from \$33.00 to \$35.50 per ton of regulated air pollutant. Also, this proposed amendment will change the fee payment and Emissions Inventory Questionnaire submission date from April 1 to June 1 each year for United States Department of Labor Standard Industrial Classification 4911 Electric Services. All other United States Department of Labor Standard Industrial Classifications will continue to have the April 1 submission date each year.

## **ACTIONS TO BE VOTED ON:**

- \* Missouri State Implementation Plan—Update to Kansas City Maintenance Plan for Control of Ozone

This proposed update to the 2002 Kansas City Maintenance Plan for Control of Ozone incorporates references to the 8-hour National Ambient Air Quality Standards and associated control triggers. Information regarding historical background and monitoring data/locations has also been updated. This revision will be in place until a new 8-hour ozone maintenance plan can be developed to meet the U.S. Environmental Protection Agency June 15, 2007 deadline.

- \* Missouri State Implementation Plan—Doe Run Herculanum, Modification to Consent Judgement

On December 7, 2000, the Missouri Air Conservation Commission adopted a revision to the state implementation plan for the control of lead emissions at the Doe Run Herculanum smelter. The plan included a Consent Judgement that set emission control construction deadlines, process throughput limitations, outlined a set of contingency

measures, and established stipulated penalties with potential production cuts. The Judgement was filed in Iron County Court and signed on January 5, 2001, and the plan was submitted to EPA on January 9, 2001, and formally approved on April 16, 2002.

The emission control strategy involved enclosure of the main processes at the plant, and the installation of building ventilation systems. The ventilation gases are filtered by state-of-the-art, high-efficiency baghouse filtration systems prior to release to the atmosphere. Capital costs were approximately \$12,000, 000. All of the emission control projects were completed by the deadline established in the Consent Judgement (July 31, 2002).

The Consent Judgement required the baghouses to meet a 0.022 grain per dry standard cubic foot performance standard, and it included language requiring the use of “Teflon membrane bags. Doe Run would like to replace these “Teflon membrane bags” with spun-bond pleated bags that have approximately twice the filter area. The Department of Natural Resources’ Air Pollution Control Program has been assured that the replacement bags will perform properly, and Doe Run will be required to conduct testing to demonstrate proper performance. The Consent Judgement must be modified to accommodate this change. The Consent Judgement has provisions for modification that simply require the parties to agree on the modification.

- \* 10 CSR 10-2.390 (amendment) Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws

This proposed amendment will amend the state Kansas City transportation conformity rule to bring it into compliance with the recently amended federal transportation conformity rule.

- \* 10 CSR 10-5.480 (amendment) Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws

This proposed amendment will amend the state St. Louis transportation conformity rule to bring it into compliance with the recently amended federal transportation conformity rule.

**August 25, 2005**  
**Jefferson City, MO**

**ACTIONS FOR PUBLIC HEARING**

(None Scheduled)

**ACTIONS TO BE VOTED ON:**

- \* 10 CSR 10-1.030 (new rule) Air Conservation Commission Appeals and Requests for Hearings

This proposed rule contains all procedural regulations for all contested cases heard by the commission or assigned to a hearing officer by the commission. The rule is a product of the Commissioner's Core Workgroup that was established to develop and recommend uniform policies and procedures to the state's environmental commissions for the conducting business on contested cases in a manner that promotes accessibility, transparency, predictability, consistency, and fairness to all affected parties.

- \* 10 CSR 10-6.110 (amendment) Submission of Emission Data, Emission Fees and Process Information

This proposed amendment will establish the emission fee for Missouri facilities as required annually by 643.070 and 643.079, RSMo. The air emission fee for calendar year 2005 is proposed to be increased from \$33.00 to \$35.50 per ton of regulated air pollutant. Also, this proposed amendment will change the fee payment and Emissions Inventory Questionnaire submission date from April 1 to June 1 each year for United States Department of Labor Standard Industrial Classification 4911 Electric Services. All other United States Department of Labor Standard Industrial Classifications will continue to have the April 1 submission date each year.

**September 29, 2005**  
**Kansas City, MO**

### **ACTIONS FOR PUBLIC HEARING**

- \* 10 CSR 10-6.010 (amendment) Ambient Air Quality Standards

This proposed amendment will adopt the new 8-Hour Ozone and Particulate Matter 2.5 Micron National Ambient Air Quality Standards finalized on July 18, 1997 and mandated under the Clean Air Act into the ambient air quality standards table. The Methods and Concentration columns in this table have also been switched for rule clarity.

- \* 10 CSR 10-6.020 (amendment) Definitions and Common Reference Tables

This proposed amendment will add definition for PM2.5 terminology related to particulate matter emissions and total suspended particulate matter will be clarified and technical titles to the hazardous air pollutants listed in the common reference tables will be corrected. These new definitions and updates are necessary for performing emissions sampling and calculations necessary for the enforcement of air pollution control regulations throughout Missouri.

- \* 10 CSR 10-6.030 (amendment) Sampling Methods for Air Pollution Sources

This proposed amendment will update adopted Federal reference methods for the new PM2.5 Ambient Air Quality Standards finalized on July 18, 1997 and mandated under the Clean Air Act. These methods are for performing emissions sampling necessary to determine compliance status for these pollutants throughout Missouri.

- \* 10 CSR 10-6.040 (amendment) Reference Methods

This proposed amendment will update Federal reference methods for the new 8-hour ozone and PM2.5 Ambient Air Quality Standards finalized on July 18, 1997 and mandated under the Clean Air Act. These are methods for calculations necessary to determine compliance status for these pollutants in areas throughout Missouri.

### **ACTIONS TO BE VOTED ON**

(None Scheduled)

**October 27, 2005**  
**Jefferson City, MO**

## **ACTIONS FOR PUBLIC HEARING**

(None Scheduled)

## **ACTIONS TO BE VOTED ON**

- \* 10 CSR 10-6.010 (amendment) Ambient Air Quality Standards

This proposed amendment will adopt the new 8-Hour Ozone and Particulate Matter 2.5 Micron National Ambient Air Quality Standards finalized on July 18, 1997 and mandated under the Clean Air Act into the ambient air quality standards table. The Methods and Concentration columns in this table have also been switched for rule clarity.

- \* 10 CSR 10-6.020 (amendment) Definitions and Common Reference Tables

This proposed amendment will add definition for PM2.5 terminology related to particulate matter emissions and total suspended particulate matter will be clarified and technical titles to the hazardous air pollutants listed in the common reference tables will be corrected. These new definitions and updates are necessary for performing emissions sampling and calculations necessary for the enforcement of air pollution control regulations throughout Missouri.

- \* 10 CSR 10-6.030 (amendment) Sampling Methods for Air Pollution Sources

This proposed amendment will update adopted Federal reference methods for the new PM2.5 Ambient Air Quality Standards finalized on July 18, 1997 and mandated under the Clean Air Act. These methods are for performing emissions sampling necessary to determine compliance status for these pollutants throughout Missouri.

- \* 10 CSR 10-6.040 (amendment) Reference Methods

This proposed amendment will update Federal reference methods for the new 8-hour ozone and PM2.5 Ambient Air Quality Standards finalized on July 18, 1997 and mandated under the Clean Air Act. These are methods for calculations necessary to determine compliance status for these pollutants in areas throughout Missouri.

**PUBLIC HEARING ON**

**PROPOSED RULE**

**10 CSR 10-1.030**

**AIR CONSERVATION COMMISSION APPEALS AND REQUEST FOR HEARINGS**

This new rule contains all procedural regulations for all contested cases heard by the commission or assigned to a hearing officer by the commission. The rule is a product of the Commissioner's Core Workgroup that was established to develop and recommend uniform policies and procedures to the state's environmental commissions for the conducting business on contested cases in a manner that promotes accessibility, transparency, predictability, consistency, and fairness to all affected parties.

*NOTE – All unshaded text below this line is printed in the Missouri Register.*

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**Title 10—DEPARTMENT OF NATURAL RESOURCES**

**Division 10—Air Conservation Commission**

**Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution Control Regulations for the Entire State of Missouri**

**10 CSR 10-1.030 Air Conservation Commission Appeals and Requests for Hearings**

*PURPOSE: This rule contains all procedural regulations for all contested cases heard by the commission or assigned to a hearing officer by the commission.*

- (1) Subject. This rule contains all procedural regulations for all contested cases heard by the commission or assigned to a hearing officer by the commission.
- (2) Definitions. As used in this rule, the following terms mean:
  - (A) Commission—The Missouri Air Conservation Commission;
  - (B) Department—The Department of Natural Resources, which includes the director thereof, or the person or division or program within the department delegated the authority to render the decision, order, determination, finding, or other action that is the subject of an initial pleading before the commission;
  - (C) Hearing—Any presentation to, or consideration by, the commission or hearing officer of evidence or argument on an initial pleading, motion or application;
  - (D) Hearing officer—The person or agency appointed by the commission to manage all delegated proceedings relating to the case;
  - (E) Initial pleading—A written appeal, request for hearing, or other document that initiates a contested case. An initial pleading shall be deemed to include subsequent amendments allowed by the presiding officer;

- (F) Person—An individual, partnership, copartnership, firm, company, public or private corporation, association, joint stock company, trust, estate, political subdivision or any agency, board, department or bureau of the state or federal government or any other legal entity whatever, which is recognized by law as the subject of rights and duties;
- (G) Petitioner—The party filing the initial pleading;
- (H) Presiding officer—The hearing officer for proceedings delegated by the commission, or the commission for proceedings not delegated to a hearing officer;
- (I) Respondent—The department and any person later joined as respondent;
- (J) Stay—A suspension of any action from which petitioner is seeking relief pending the final determination in the case.

(3) Appointment of Hearing Officers.

- (A) As authorized by statute, in lieu of presiding over a hearing directly, the commission may select any of the following persons to preside over the hearing of an initial pleading—
  1. Any one (1) or several members of the commission;
  2. The Missouri Administrative Hearing Commission; or
  3. An attorney qualified to practice in Missouri.
- (B) The appointment, as authorized by statute and approved by the commission either as a general practice or on a case-by-case basis, may be made as follows:
  1. By the chairman of the commission within the chairman's discretion;
  2. By a vote of the majority of the commission; or
  3. By the parties from a list of available hearing officers either by consensus or, when practical, by process of elimination that allows the parties, first the department and then the petitioner, an equal opportunity to strike names.

(4) Role of the Hearing Officer.

- (A) Upon appointment, the department shall provide the hearing officer a letter confirming the appointment and copies of—
  1. The initial pleading;
  2. The written decision, order, determination, finding, or other action that is the subject of the initial pleading. This rule may be satisfied by providing a copy of the specific portion or portions of the action, such as a permit, that is contested;
  3. Any entry of appearance by an attorney representing a party and any answer already filed with the commission; and
  4. The names, addresses, phone and fax numbers of the parties or their attorneys, if this information is not already included in the above documents.
- (B) The hearing officer has full authority to make rulings or issue orders on all matters that may arise except that the hearing officer shall not have the authority to render a final disposition on either jurisdictional grounds or the merits of a case that is not settled by the parties or voluntarily dismissed by the petitioner.

- (C) For purposes of determining the final disposition of a cause on the basis of either the merits or the commission's jurisdiction, the hearing officer shall prepare a recommended decision, in writing, including findings of fact, conclusions of law, and a determination as to relief, for the commission's consideration. The hearing officer shall return the recommendation and the complete record of the proceedings in the cause to the commission.
  - (D) Upon receipt of the hearing officer's recommendation and the record in the case, the commission shall—
    - 1. Distribute the hearing officer's recommendation to the parties or their counsel;
    - 2. Allow the parties or their counsel an opportunity to submit written arguments regarding the recommendation;
    - 3. Allow the parties or their counsel an opportunity to present oral arguments before the commission makes the final determination;
    - 4. Complete its review of the record and deliberations as soon as practicable; the commission members may confer with the hearing officer during deliberations;
    - 5. Deliberate and vote upon a final, written determination during an open meeting; and
    - 6. Issue its final, written determination as soon as practicable.
- (5) Computation of Time.
- (A) In computing any period of time prescribed or allowed by this rule or by order of the presiding officer, the day of the act, event or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day that is neither a Saturday, Sunday nor legal holiday.
  - (B) Except for any period of time that establishes the commission's jurisdiction, the presiding officer may extend the time set by this rule either before or after the time period has expired.
  - (C) A party may move for an extension of the time set by this rule or by the presiding officer. The motion shall be in writing and shall state whether any party objects to the extension or that efforts to contact the parties have been futile.
- (6) Practice by a Licensed Attorney; When Required.
- (A) Any individual may present that individual's own case without a licensed attorney.
  - (B) Any individual may file an initial pleading on behalf of another person.
  - (C) Except as set forth in subsection (6)(B) of this rule, only a licensed attorney may represent any other person, including a corporation or other legal entity. The filing of any document with the presiding officer by a licensed attorney shall be deemed an entry of appearance. An attorney not authorized to practice in Missouri shall enter an appearance in accordance with Missouri Supreme Court Rules.
- (7) Notice of Initiation of the Case.



- (A) The department shall promptly mail a notice of institution of the case to all necessary parties, if any, and to all persons designated by the moving party and to any other persons to whom the department may determine that notice should be given. The department shall keep a permanent record of the persons to whom such notice was sent and of the addresses to which sent and the time when sent. Where a case would affect the rights, privileges or duties of a large number of persons whose interests are sufficiently similar that they may be considered as a class, notice may in a proper case be given to a reasonable number thereof as representatives of such class. In any case where the name or address of any proper or designated party or person is not known to the agency, and where notice by publication is permitted by law, then notice by publication may be given in accordance with any rule or regulation of the agency or if there is no such rule or regulation, then, in a proper case, the agency may by a special order fix the time and manner of such publication.
- (B) The notice of institution of the case to be mailed as provided in this section shall state in substance:
1. The caption and number of the case;
  2. That a writing seeking relief has been filed in such case, the date it was filed, and the name of the party filing the same;
  3. A brief statement of the matter involved in the case unless a copy of the writing accompanies said notice;
  4. Whether an answer to the writing is required, and if so the date when it must be filed;
  5. That a copy of the writing may be obtained from the department, giving the address to which application for such a copy may be made. This may be omitted if the notice is accompanied by a copy of such writing; and
  6. The location in the Code of State Regulations of the rules of the commission regarding discovery or a statement that the department shall send a copy of such rules on request.
- (C) Unless the notice of hearing hereinafter provided for shall have been included in the notice of institution of the case, the agency shall, as promptly as possible after the time and place of hearing have been determined, mail a notice of hearing to the moving party and to all persons and parties to whom a notice of institution of the case was required to be or was mailed, and also to any other persons who may thereafter have become or have been made parties to the proceeding. The notice of hearing shall state:
1. The caption and number of the case; and
  2. The time and place of hearing.
- (D) No hearing in a contested case shall be had, except by consent, until a notice of hearing shall have been given substantially as provided in this section, and such notice shall in every case be given a reasonable time before the hearing. Such reasonable time shall be at least ten (10) days except in cases where the public morals, health, safety or interest may make a shorter time reasonable; provided that when a longer time than ten (10) days is prescribed by statute, no time shorter than that so prescribed shall be deemed reasonable.

- (8) Service of Filings Other Than the Initial Pleading.
- (A) Unless otherwise provided by these rules or by other law, any party to a proceeding before the commission or any person who seeks to become a party shall serve upon the presiding officer and all attorneys of record and unrepresented parties a copy of any document or item the party files.
- (B) Methods of Service.
1. A person may serve a document on an attorney by—
    - A. Delivering it to the attorney;
    - B. Leaving it at the attorney's office with a secretary, clerk or attorney associated with or employed by the attorney served;
    - C. Mailing it to the attorney's last known address; or
    - D. Facsimile transmitting (faxing) it to the attorney's last known fax number.
  2. A person may serve a document on an unrepresented party by—
    - A. Delivering it to the party;
    - B. Mailing it to the party's last known address; or
    - C. Faxing it to the party's last known fax number.
- (C) Service by mailing is complete upon placing in the mail. Service by fax is complete upon its transmission.
- (D) Any document or item filed shall contain or be accompanied by a certification of how and when the filing party has met the provisions of this section.
- (E) The presiding officer, after due notice, may waive the requirements of this section either on its own motion or on the motion of any party.
- (F) The requirements of this section shall not apply to an initial pleading.
- (9) Filing of Documents; Fax Filing.
- (A) A party shall file a document with the presiding officer at the presiding officer's principle business office. Filings may be accomplished by—
1. Registered or certified mail. A document filed by registered or certified mail is deemed filed on the date shown on the United States Post Office records;
  2. Electronic facsimile transmission (fax). A document filed by fax is deemed filed at the time the presiding officer receives a fax of the document. If a document arrives by fax after 5:00 p.m. and before 12:00 midnight or on a Saturday, Sunday or legal holiday, it is filed on the presiding officer's next business day, unless the presiding officer orders otherwise;
  3. Actual delivery of a hard copy; or
  4. Any other means as authorized by the Missouri Rules of Civil Procedure.
- (B) A party filing by fax shall—
1. Notify the presiding officer in advance, if possible, of its intention to file the document by fax;
  2. Fax the document to the presiding officer's dedicated fax number;
  3. Fax the document, if possible, to all other parties having electronic facsimile equipment. If unable to fax, a party shall notify all other parties of its intention to file the document by fax. The notice need not be in

writing. A good faith attempt at compliance shall satisfy the requirements of this subsection;

4. Send the original signed document to the presiding officer as the presiding officer so orders;
5. Certify in the documents—
  - A. The method of notice used to fulfill the requirements of paragraph (9)(B)3 of this rule; and
  - B. Compliance with the requirements of paragraph (9)(B)4 of this rule; and
6. Send a copy of the document to all parties. The presiding officer may order the party to send a copy of the document to any party by overnight mail.

(10) Stays.

- (A) Scope and Content. The presiding officer may stay or suspend any action of the department pending the commission's findings and determination in the case. The presiding officer may require a bond or impose other conditions.
  1. All motions for stay of the action from which petitioner is appealing shall be in writing.
  2. The movant shall include in the motion:
    - A. The full name, address and telephone number of movant, any attorney representing movant and the respondent;
    - B. A clear heading, Motion for Stay;
    - C. Facts showing why the commission should grant the stay, set forth in numbered paragraphs, each of which shall contain, as far as practical, a single set of circumstances; and
    - D. A copy of any written notice of the action from which the petitioner is appealing.
  3. The movant or movant's legal counsel shall sign the motion.
- (B) The movant shall file the original and one (1) copy of the motion for stay with the presiding officer.
- (C) The presiding officer, upon either party's request, shall hold or, on its own initiative, may hold an evidentiary hearing on whether to issue or dissolve a stay order.
- (D) The denial of a motion for stay shall not prejudice the movant's initial pleading on the merits.
- (E) The stay order shall remain effective until the commission finally disposes of the case unless the commission orders otherwise.

(11) Form of Initial Pleadings.

- (A) In General. An initial pleading shall be in writing and shall include:
  1. The full name, address and telephone number of—
    - A. Petitioner; and
    - B. Any attorney representing petitioner; and
  2. An explanation of the relief sought and the reason for requesting it. The presiding officer shall construe the provisions of this section liberally.

The presiding officer shall have the discretion to order the petitioner to amend the initial pleading by providing more detailed information regarding the relief sought and the basis for that relief before allowing the matter to proceed.

- (B) Petitioner or petitioner's legal counsel shall sign the initial pleading.
- (C) The initial pleading is deemed filed the day it is received by the commission.

(12) Answers.

- (A) The respondent shall file an answer.
- (B) An answer shall—
  - 1. Be in writing;
  - 2. Admit those portions of the initial pleading which the respondent believes are true and deny those portions that the respondent believes are not true and state that the respondent is without sufficient knowledge to admit or deny the portions not admitted or denied;
  - 3. Assert any specific failure of the initial pleading to comply with this rule, or any other defenses; and
  - 4. Be signed by the respondent or the respondent's attorney.
- (C) The respondent shall file the answer within thirty (30) days after service of the notice of initial pleading.

(13) Intervention.

- (A) The presiding officer shall follow Rule 52.12 of the Missouri Rules of Civil Procedure in determining any motion to intervene.
- (B) A motion to intervene shall—
  - 1. Be in writing;
  - 2. Set forth facts showing that the person is entitled to intervene;
  - 3. Be signed by the person or the person's attorney; and
  - 4. Be accompanied by an initial pleading or answer.

(14) Discovery.

- (A) Any party may conduct discovery in the manner provided for in the Rules Civil Procedure adopted by the Supreme Court of Missouri.
- (B) Written Interrogatories; Production of Documents or Things or Permission to Enter Upon Land or Other Property, For Inspection and Other Purposes.
  - 1. A party serving written interrogatories; production of documents or things or permission to enter upon land or other property, for inspection and other purposes, shall include a certificate of service in substantially the following form:

I served the original and *(number of)* copies of these *(written interrogatories/ production of documents or things or permission to enter upon land or other property, for inspection and other purposes, requests for admission)* on *(name of parties)* this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

(Signature)\_\_\_\_\_

2. The party conducting discovery shall file a copy of the certificate with the presiding officer. The party shall not file written interrogatories; production of documents or things or permission to enter upon land or other property, for inspection and other purposes with the presiding officer unless the presiding officer so orders. The party may file requests for admissions with the presiding officer.
3. The party conducting discovery shall serve the original discovery on the interrogated party's counsel or on an unrepresented interrogated party, and copies on all other counsel or unrepresented parties.
4. Requests for admission and interrogatories shall include appropriate spaces for answers or objections.
5. The party responding to requests for admissions or interrogatories shall complete them by typewriting or printing the answer or objection to each question in the space provided. If the space is insufficient, the party shall reply by affidavit, clearly indicate so in the space provided, and attach the affidavit to the interrogatories or requests for admissions. Each response shall include a certificate of service in substantially the following form:

I served the original of these completed (*written interrogatories/requests for admission*) on (*name of party*) and sent (*number of*) copies to (*name of parties*) this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(Signature)\_\_\_\_\_

6. The responding party shall file the certificate of service with the presiding officer and shall not file the response unless the presiding officer so orders. The responding party shall serve the original completed response on the interrogating party and copies on all other parties.
- (C) Whenever a party files a motion to compel compliance with any discovery request, to sanction another party for failing to respond or responding inadequately to any discovery request, or alleging violation of any discovery rule, the moving party shall certify in its motion that it has made reasonable efforts to contact the party who is the subject of the motion and inform the presiding officer as to what steps the moving party has taken to resolve informally the discovery dispute or alleged discovery rule violation. The party seeking relief shall attach a copy of any disputed discovery to the motion to compel.
- (D) No discovery or response to discovery shall be considered as evidence unless it is admitted into evidence upon hearing, or authenticated and attached to a motion for disposition without hearing, as an exhibit.
- (E) No discovery order that permits entrance upon land or inspection of property without permission of the owner, or purports to hold any person in contempt shall be enforceable, unless the party seeking such enforcement obtains an order of the circuit court of the county in which the land or property is located, or the circuit court of Cole County, at the option of the person seeking enforcement.

(15) Sanctions.

- (A) The presiding officer may impose a sanction upon any party for conduct including, without limitation, such party's failure to:
    - 1. Comply with any rule of the commission or order of the presiding officer, including failure to file an answer;
    - 2. Appear at any hearing; or
    - 3. Apprise the presiding officer of a current mailing address.
  - (B) Sanctions available under this rule include without limitation:
    - 1. Striking all or any part of the party's pleading;
    - 2. Deeming all or any part of an opposing party's pleading admitted; or
    - 3. Barring or striking all or any evidence on any issue.
  - (C) The presiding officer shall determine whether to impose any sanction, and the appropriate degree of such sanction, based on the facts of each case.
- (16) Disposing of a Case Without a Hearing.
- (A) Settlement. The parties may settle all or any part of the case without any action by the commission or by requesting agreed upon action by the commission, where such settlement is permitted by law. If the parties settle all of the case, petitioner shall file a notice of dismissal as described in subsection (16)(B) of this rule or a request for stipulated action by the commission.
  - (B) Notice of Dismissal. Petitioner may voluntarily dismiss the initial pleading at any time. Petitioner shall effect a voluntary dismissal by filing a notice of dismissal and is effective on the date petitioner files it, without any action by the commission.
  - (C) The commission may grant a motion for decision without hearing if the parties stipulate to undisputed facts and the commission determines that such facts entitle any party, including a party who did not file such motion, to a favorable decision on all or any part of the case as a matter of law.
  - (D) Involuntary Dismissal. Involuntary dismissal means a disposition of the case that does not reach the merits of the complaint. Grounds for involuntary dismissal of the complaint include without limitation:
    - 1. Lack of jurisdiction; and
    - 2. The bases for a sanction set forth in this rule.
- (17) Prehearing Conferences. On its own motion or that of any party, the presiding officer may order a prehearing conference to discuss matters pertinent to the case. All parties or their legal counsels, or both shall participate in the prehearing conference and be prepared to discuss the matters, including the possibilities for settlement.
- (18) Hearings on Motions. The presiding officer may rule upon any motion on the basis of the record and without oral argument. The presiding officer shall hear oral argument or evidence only upon a party's written motion or upon the presiding officer's own motion.
- (19) Hearings; Default.
- (A) Notice. The hearing officer shall serve an initial notice of hearing on all parties or their counsel by regular mail. The notice of hearing shall state the date, time and place of the hearing and shall be served at least ten (10) days prior to the hearing.

The presiding officer may serve any other notice of hearing by any other method allowed by law.

- (B) Location. The hearing officer shall hold all hearings in Jefferson City, Missouri, except as otherwise provided by statute or when a party shows good cause to hold the hearing elsewhere within the state.
- (C) Date.
  - 1. First setting. Unless otherwise provided by statute or with the consent of the parties, the hearing officer shall not conduct any hearing on less than ten (10) days notice.
  - 2. Resettings. The hearing officer may reset the hearing by amended notice. If the reset date is later than the first setting, the hearing officer may hold the hearing fewer than ten (10) days from the date of the issuance of the amended notice.
- (D) Expedited Hearings and Continuances. The hearing officer may expedite or continue the hearing date upon notice to the parties except as otherwise provided by law. Any party may file a motion for an expedited hearing or a continuance. The motion shall state good cause.
- (E) Order of Proof. Regardless of which party has the burden of proof petitioner shall present evidence first unless the presiding officer orders otherwise.
- (F) Default. If a party fails to appear at hearing, the party shall be in default.
  - 1. If petitioner defaults, and petitioner has the burden of proof, the commission may dismiss the case for failure to prosecute.
  - 2. If any party defaults, any other party may present evidence, and the defaulting party shall have waived any objection to such evidence. Such evidence shall constitute the sole evidentiary basis for disposition of the case, unless the commission orders otherwise.

(20) Transcripts.

- (A) The court reporter shall file a transcript of all hearings with the commission. Any person may purchase a copy of the transcript through the court reporter.
- (B) Any party may move to correct the transcript no more than ninety (90) days after the court reporter files the transcript. The commission on its own motion may order the hearing reporter to correct the transcript any time before the commission finally disposes of the case.

(21) Fees and Expenses. A party may apply for litigation fees and expenses as authorized by law. Such application shall be an initial pleading in a separate case. The case for fees and expenses shall be governed by this rule.

*AUTHORITY: section 643.050, RSMo 2000. Original rule filed May 12, 2005.*

*PUBLIC ENTITY COSTS: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE ENTITY COSTS: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed rule will begin at 9:00 a.m., July 21, 2005. The public hearing will be held at the Holiday Inn, Salon D, 2781 North Westwood Boulevard, Poplar Bluff, MO. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven (7) days prior to the hearing to Director, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written statement of their views until 5:00 p.m., July 28, 2005. Written comments shall be sent to Chief, Operations Section, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176.*



**PUBLIC HEARING ON  
PROPOSED AMENDMENT TO**

**10 CSR 10-6.110**

**SUBMISSION OF EMISSION DATA, EMISSION FEES AND PROCESS  
INFORMATION**

This proposed amendment will change subsection (3)(D).

Subsection (3)(D) is being amended to establish emission fees for calendar year 2005 and to establish June 1 each year for Standard Industrial Classification 4911 Electric Services as the due date for emissions fees produced the previous calendar year and Emissions Inventory Questionnaire forms.

*NOTE 1 - Legend for rule actions to be presented at public hearing is as follows:*

- \* Shaded Text - Rule sections or subsections not proposed for amendment. This text is only for reference.*
- \* Unshaded Text - Rule sections or subsections that are proposed for change.*

*NOTE 2 - All unshaded text below this line is printed in the Missouri Register.*

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**Title 10 - DEPARTMENT OF  
NATURAL RESOURCES**

**Division 10 - Air Conservation Commission**

**Chapter 6 – Air Quality Standards, Definitions, Sampling and Reference Methods and Air  
Pollution Control Regulations for the Entire State of Missouri**

**PROPOSED AMENDMENT**

**10 CSR 10-6.110 Submission of Emission Data, Emission Fees and Process Information.**

The commission proposes to amend subsection (3)(D). If the commission adopts this rule action, it will be submitted to the U.S. Environmental Protection Agency to replace the current rule in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address and phone number listed in the Notice of Public Hearing at the end of this rule. More information concerning this rulemaking can be found at the Missouri Department of Natural Resources' Environmental Regulatory Agenda website, [www.dnr.mo.gov/regs/regagenda.htm](http://www.dnr.mo.gov/regs/regagenda.htm).

*PURPOSE: This rule provides procedures for collecting, recording, and submitting emission data and process information so that the state can calculate emissions for the purpose of state air resource planning. This amendment will establish emission fees for Missouri facilities as*

*required annually and split the fee payment schedule to better align the collection of fee revenue with the state fiscal year it is to cover. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is section 643.079 of the Missouri state statutes and a December 10, 2004 Email Re: Proposed 2005 Changes for 10 CSR 10-6.110.*

**PURPOSE:** *This rule deals with submittal of emission information, emission fees and public availability of emission data. It provides procedures for collection, recording and submittal of emission data and process information on state-supplied Emission Inventory Questionnaire and Emission Statement forms, or in a format satisfactory to the director, so that the state can calculate emissions for the purpose of state air resource planning.*

(1) Applicability.

- (A) This rule applies to any installation that: notifies and accepts a permit-by-rule under 10 CSR 10-6.062, is required to obtain a permit under 10 CSR 10-6.060 or 10 CSR 10-6.065, is required to file an Emission Inventory Questionnaire (EIQ) as outlined in the Reporting Frequency table in paragraph (3)(A)5. of this rule, or is required by the staff director to prove its potential emissions are below *de minimis* levels.
- (B) An emission statement is required of facilities if the actual emission of either nitrogen oxides (NO<sub>x</sub>), volatile organic compounds (VOCs) or carbon monoxide (CO) are equal to or greater than ten (10) tons annually. Emission statement (Form 2.0Z) requirements in this rule are applicable only to sources located in nonattainment areas.

(2) Definitions. Definitions of certain terms specified in this rule may be found in 10 CSR 10-6.020.

(3) General Provisions.

(A) Record Keeping and Reporting Requirements.

- 1. The owner or operator of an installation that is a source of any air contaminant shall collect, record and maintain, during each calendar year of operation—the time period and duration of emissions; the amounts of processed materials, fuels and solvents consumed; and the amounts of process materials, fuels and solvents stored in tanks and storage piles which emit any regulated air pollutant.
- 2. The owner or operator of an installation subject to paragraph (3)(A)1. of this rule shall file with the director, on the frequency specified in paragraph (3)(A)5. of this rule, reports containing the information specified in paragraph (3)(A)1. of this rule. The reports shall specify the type and location of all sources of regulated air pollutants and the amount of each type of regulated air pollutant at each location; the size and height of all emission outlets, stacks and vents; the processes employed, including all fuel combustion and incineration; the type of air pollution control equipment used at the installation; the capture efficiency and control efficiency of the air pollution control equipment, where applicable; and ozone season information (Form 2.0Z) from sources located in nonattainment areas. Capture efficiency shall be applicable to emission points which are controlled by air pollution control devices and are not

fully enclosed. Capture efficiency is not applicable to fugitive dust. The department encourages facilities to perform tests to determine capture efficiency. Industrial ventilation principles and engineering calculations may be used if testing is physically impossible or cost prohibitive. If testing or engineering calculation is not possible, then a default value of fifty percent (50%) capture efficiency may be used. Documentation verifying the capture efficiency shall be included with the EIQ. The owner or operator may submit a report containing information of a different nature provided the information submitted is adequate for the purposes of air quality planning and fee assessment and is approved by the director. Information submitted shall be reduced by the director to emission data as defined in 10 CSR 10-6.210(3)(B)2.

3. The reports required by paragraphs (3)(A)2. and 4. of this rule shall be completed on state supplied EIQ forms or in a form satisfactory to the director and shall be submitted to the director within ninety (90) days after the end of each reporting period. After the effective date of this rule, any revision to the EIQ forms will be presented to the regulated community for a forty-five (45)-day comment period. The reporting periods for an installation, as determined by the reporting frequency specified in paragraph (3)(A)5. of this rule, shall end on December 31 of each calendar year. Sources allowed to file reports once every five (5) years shall submit the EIQ on the same schedule as the operating permit renewal application. Each report shall contain the information required by paragraph (3)(A)2. of this rule for each air contaminant source at the installation for the twelve (12)-month period immediately preceding the end of the reporting period, in addition to the information required under paragraph (3)(A)1. of this rule to be collected, recorded and maintained during each year of operation of the installation.
4. For sources located in nonattainment areas, an emission statement is required if the actual emission of either nitrogen oxides (NO<sub>x</sub>), volatile organic compounds (VOCs) or carbon monoxide (CO) are equal to or greater than ten (10) tons annually. Emissions of each pollutant shall be reported if a facility meets the ten (10) ton threshold for any of the three (3). Emissions statement reporting requirements shall be completed on state supplied EIQ forms and include the information required at paragraph (3)(A)2. of this rule and ozone season information for VOC, NO<sub>x</sub> and CO emissions and any other criteria pollutant requested by the director. After the effective date of this rule, any revision to the EIQ forms will be presented to the regulated community for a forty-five (45)-day comment period. Emission statements shall be submitted in accordance with the schedule in paragraph (3)(A)5. of this rule.
5. The reports required by paragraphs (3)(A)2. and 4. of this rule shall be filed on the following frequency:

## Reporting Frequency

Installation Classification	Emission Inventory Questionnaire Nonattainment Area      All Other	
1. Any installation required to obtain a Part 70, Intermediate or Basic Operating Permit under 10 CSR 10-6.065.	Annually	Annually
2. Any installation required to obtain a construction permit under 10 CSR 10-6.060 or accepting a permit-by-rule under 10 CSR 10-6.062, but not an operating permit.	Once every five (5) years	Once every five (5) years
3. Any installation required to submit an EIQ by the director.	Within forty-five (45) days of request	Within forty-five (45) days of request
4. Any installation whose actual emissions of VOC, NO <sub>x</sub> or CO are equal to or greater than ten (10) tons/year.	Annually, an emission statement is required	Exempt, no emission statement required
6. All data collected and recorded in accordance with the provisions of this rule shall be retained by the owner or operator for not less than five (5) years after the end of the calendar year in which the data was collected and all these records shall be made available to the director upon his/her request.		
(B) Specific Report Required. The director may require the owner or operator of an installation to submit compound specific emission rates when the information submitted pursuant to paragraph (3)(A)3. of this rule does not provide sufficient information to determine whether specific compounds from the installation may cause a threat to public health or welfare.		
(C) Public Availability of Emission Data and Process Information. Any information obtained pursuant to the rule(s) of the Missouri Air Conservation Commission that would not be entitled to confidential treatment under 10 CSR 10-6.210 shall be made available to any member of the public upon request.		
(D) Emission Fees.		
1. Any air contaminant source required to obtain a permit under sections 643.010–643.190, RSMo, except sources that produce charcoal from wood, shall pay an annual emission fee, regardless of their EIQ reporting frequency, of <del>thirty-three dollars and no cents (\$33.00)</del> <b>thirty-five dollars and fifty cents (\$35.50)</b> per ton of regulated air pollutant emitted starting with calendar year <del>2004</del> <b>2005</b> in accordance with the conditions specified in paragraph (3)(D)2. of this rule. Sources which are required to		

file reports once every five (5) years may use the information in their most recent EIQ to determine their annual emission fee.

2. General requirements.

- A. The fee shall apply to the first four thousand (4,000) tons of each regulated air pollutant emitted. However, no air contaminant source shall be required to pay fees on total emissions of regulated air pollutants in excess of twelve thousand (12,000) tons in any calendar year. A permitted air contaminant source which emitted less than one (1) ton of all regulated pollutants shall pay a fee equal to the amount of one (1) ton.
- B. The fee shall be based on the information provided in the facility's EIQ.
- C. An air contaminant source which pays emissions fees to a holder of a certificate of authority issued pursuant to section 643.140, RSMo, may deduct those fees from the emission fee due under this section.
- D. The fee imposed under paragraph (3)(D)1. of this rule shall not apply to carbon oxide emissions.
- E. The fees **for emissions produced during the previous calendar year** shall be due April 1 each year **for all United States Department of Labor Standard Industrial Classifications except for Standard Industrial Classification 4911 Electric Services which shall be due June 1 each year** ~~[for emissions produced during the previous calendar year]~~. **The fees shall be payable to the Department of Natural Resources.**
- F. ~~[The fees shall be payable to the Department of Natural Resources and shall be accompanied by the]~~ **All Emissions Inventory Questionnaire forms or equivalent approved by the director shall be due April 1 each year for all United States Department of Labor Standard Industrial Classifications except for Standard Industrial Classification 4911 Electric Services which shall be due June 1 each year.**
- G. For the purpose of determining the amount of air contaminant emissions on which the fees are assessed, a facility shall be considered one (1) source under the definition of section 643.078.2, RSMo, except that a facility with multiple operating permits shall pay emission fees separately for air contaminants emitted under each individual permit.

3. Fee collection. The annual changes to this rule to establish emission fees for a specific year do not relieve any source from the payment of emission fees for any previous year.

(E) Emission Calculation and Verification.

- 1. Emission calculation. All sources shall use the following hierarchy as a guide in determining the most desirable emission data to report to the department. If data is not available for an emission estimation method or an emission estimation method is impractical for a source, then the subsequent emission estimation method should be used in its place:

- A. Continuous Emission Monitoring System (CEMS) as specified in subparagraph (3)(E)2.A. of this rule;
  - B. Stack tests as specified in subparagraph (3)(E)2.B. of this rule;
  - C. Material/mass balance;
  - D. AP-42 (Environmental Protection Agency (EPA) Compilation of Air Pollution Emission Factors) or FIRE (Factor Information and Retrieval System) (as updated);
  - E. Other EPA documents as specified in subparagraph (3)(E)2.C. of this rule;
  - F. Sound engineering calculations; or
  - G. Facilities shall obtain department preapproval of emission estimation methods other than those listed in subparagraphs (3)(E)1.A.–F. of this rule before using any such method to estimate emissions in the submission of an EIQ. The department will approve or deny requests by December 31 if submitted in writing by September 1.
2. Emission verification. The director reserves the authority to review and approve all emission estimation methods used to calculate emissions for the purpose of filing an EIQ for accuracy, reliability and appropriateness. Inappropriate usage of an emission factor or method shall include, but is not limited to: using emission factors not representative of a process, using equipment in a manner other than that for which it was designed for in calculating emissions, or using a less accurate emission estimation method for a process when a facility has more accurate emission data available. Additional requirements for the use of a specific emission estimation method include:
- A. Continuous Emission Monitoring System (CEMS).
    - (I) CEMS must be shown to have met applicable performance specifications during the period for which data is being presented.
    - (II) CEMS data must be presented in the units which the system was designed to measure. Additional data sets used to extrapolate CEMS data must have equal or better reliability for such extrapolation to be acceptable.
    - (III) When using CEMS data to estimate emissions, the data must include all parameters (i.e. emission rate, gas flow rate, etc.) necessary to accurately determine the emissions. CEMS data which does not include all the necessary parameters must be reviewed and approved by the director or local air pollution control authority before it may be used to estimate emissions;
  - B. Stack tests.
    - (I) Stack tests must be conducted on the specific equipment for which the stack test results are used to estimate emissions.
    - (II) Stack tests must be conducted according to the methods cited in 10 CSR 10-6.030, unless an alternative method has been approved in advance by the director or local air pollution control authority.

- (III) Stack tests will not be accepted unless the choice of test sites and a detailed test plan have been approved in advance by the director or local air pollution control authority.
    - (IV) Stack tests will not be accepted unless the director or local air pollution control authority has been notified of test dates at least thirty (30) days in advance and thus provided the opportunity to observe the testing. This thirty (30)-day notification may be reduced or waived on a case-by-case basis by the director or local air pollution control authority.
    - (V) Stack test results which do not meet all the criteria of parts (3)(E)2.B.(I)–(IV) of this rule may be acceptable for estimating emissions, but must be submitted for review and approval by the director or local air pollution control authority on a case-by-case basis; and
  - C. EPA documents. Other EPA documents may be used to estimate emissions if the emission factors are more appropriate or source specific than AP-42 or FIRE. Newly developed EPA emission factors must be published by December 31 of the year for which the facility is submitting an EIQ.
- (F) Emission Fee Auditing/Adjustment.
  - 1. The department may conduct on-site detailed reviews (audits) of EIQs and supporting documentation as the director deems necessary.
  - 2. The department may make emission fee adjustments when—
    - A. Clerical or arithmetic errors have been made;
    - B. Submitted documentation is not supported by inspections or audits;
    - C. Emissions estimates are modified as a result of emission verification or audits;
    - D. Credit has been incorrectly applied for an emissions fee paid to a local air pollution control agency; or
    - E. The department shall not be limited by subparagraphs (3)(F)2.A.–D. of this rule in making emission fee adjustments.
- (4) Reporting and Record Keeping. Owners or operators shall maintain records containing sufficient information to demonstrate compliance with all applicable emission fee rule requirements as specified in subsections (3)(A) and (B). All data collected and recorded in accordance with the provisions of this rule shall be retained by the owner or operator for not less than five (5) years after the end of the calendar year in which the data was collected and all these records shall be made available to the director upon his/her request.
- (5) Test Methods. *(Not Applicable)*

*AUTHORITY: section 643.050, RSMo 2000. Original rule filed June 13, 1984, effective Nov. 12, 1984. Amended: Filed April 2, 1987, effective Aug. 27, 1987. Amended: Filed May 14, 1993, effective Jan. 31, 1994. Amended: Filed Sept. 2, 1993, effective May 9, 1994. Amended: Filed May 15, 1995, effective Dec. 30, 1995. Amended: Filed May 15, 1997, effective Dec. 30, 1997. Amended: Filed May 12, 1998, effective Dec. 30, 1998. Amended: Filed May 14, 1999, effective Dec. 30, 1999. Amended: Filed April 6, 2000, effective Nov. 30, 2000. Amended: Filed June 1,*

2001, effective Dec. 30, 2001. Amended: Filed Jan. 16, 2002, effective Aug. 30, 2002. Amended: Filed May 15, 2003, effective Dec. 30, 2003. Amended: Filed May 17, 2004, effective Dec. 30, 2004. Amended: Filed May 16, 2005.

*PUBLIC COST: This proposed amendment will result in an annualized aggregate gain in revenue of two hundred thirty-eight thousand five hundred forty-seven dollars (\$238,547) for the Department of Natural Resources. This gain in revenue takes into account an annualized aggregate cost of two hundred thirty-five thousand nine hundred eighty-eight dollars (\$235,988) for other public entities. Note attached fiscal note for assumptions that apply.*

*PRIVATE COST: This proposed amendment will result in an annualized aggregate cost of two hundred thirty-eight thousand five hundred forty-seven dollars (\$238,547) for private entities. Note attached fiscal note for assumptions that apply.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., July 21, 2005. The public hearing will be held at the Holiday Inn, 2781 North Westwood Boulevard, Poplar Bluff, MO 63901. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven (7) days prior to the hearing to Director, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written statement of their views until 5:00 p.m., July 28, 2005. Written comments shall be sent to Chief, Operations Section, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176.*



# FISCAL NOTE PUBLIC ENTITY COST

## I. RULE NUMBER

Title: 10 - Department of Natural Resources

Division: 10 - Air Conservation Commission

Chapter: 6 - Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution  
Control Regulations for the Entire State of Missouri

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 10 CSR 10 - 6.110 Submission of Emission Data, Emission Fees and Process  
Information

## II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Misc. Public Entities (listed below)	\$ 235,988 Cost For This Amendment
Missouri Department of Natural Resources	\$ 238,547 Increase in Revenue

Cost estimates are reported as annualized aggregates.

## III. WORKSHEET

	EIQ Fee Costs		
	FY2006	FY2007**	Annualized Aggregate
EIQ Fees ( \$35.50 Fee)	\$1,520,658	\$1,509,754	\$1,472,517

	EIQ Fee Costs		
	FY2006	FY2007**	Annualized Aggregate
EIQ Fees ( \$33.00 Fee)	\$1,181,900	\$1,193,719	\$1,236,529

Aggregate EIQ Fee Cost For This Amendment***	\$235,988
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Increase In Public Entity Fee Revenue For This Amendment***	\$474,535
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Resulting Gain In Public Entity Fee Revenue For This Amendment***	\$238,547
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\*See Assumption 3.

\*\*The first full fiscal year for this rulemaking is FY2007.

\*\*\*Difference in annualized aggregate costs when raising \$33.00 fee to \$35.50 .

List of Affected Entities:

Source Description	Number of Facilities
Gas & Electric	47
Sanitary Services	32
Hospitals	21
Rehabilitation Centers	2
Schools	9
Correctional Facility	8
National Security	6
Post Office	2
Transportation	3
Other	14
Totals	144

**IV. ASSUMPTIONS**

1. For the convenience of calculating this fiscal note over a reasonable time frame, the life of the rule is assumed to be ten (10) years although the duration of the rule is indefinite. If the life of the rule extends beyond ten years, the annual costs for additional years will be consistent with the assumptions used to calculate annual costs as identified in this fiscal note.
2. The public entity costs are fee collection estimates. The costs are based on the most recent data available to the department and are expected to be more accurate than previous fiscal notes for the same fiscal years.
3. The fees for emissions produced during the previous calendar year shall be due April 1 each year for all United States Department of Labor Standard Industrial Classifications except for Standard Industrial Classification 4911 Electric Services which shall be due June 1 each year. For example, costs for all calendar year 2005 emission fees are received by the Missouri Department of Natural Resources between January 1, 2006 and June 30, 2006.
4. Cost and affected entity estimates are based on data presently entered in the tracking systems of the Missouri Department of Natural Resources' Air Pollution Control Program. This data is subject to change as additional information is reviewed, updated, and entered.
5. Fees for public entities are based on \$35.50 per ton of regulated air pollutant for calendar 2005. This fee represents an \$2.50 dollar increase from the emissions fee of \$33.00 per ton of regulated air pollutant for calendar year 2004.
6. The emission fees paid by public entities may vary depending on their current information and their chargeable emissions with fees remaining relatively constant. However, new controls decrease the amount of their emission fees.
7. The percent difference between the two most recent years of actual facility emissions is used to project future year facility emissions.
8. Compliance and EIQ preparation costs reported on EIQs are not included in this fiscal note because these costs are not a result of this rulemaking. Compliance and preparation costs have been included in fiscal notes for the rulemakings that implemented these requirements.
9. The aggregate gain in public entity fee revenue for the Missouri Department of Natural Resources' Air Pollution Control Program is directly related to the difference in emission fees. The net gain in revenue is equivalent to the amount of gain realized by both public and private entities paying emission fees.

## FISCAL NOTE PRIVATE ENTITY COST

### I. RULE NUMBER

Title: 10 - Department of Natural Resources

Division: 10 - Air Conservation Commission

Chapter: Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution  
~~Control Regulations for the Entire State of Missouri~~

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 10 CSR 10 - 6.110 Submission of Emission Data, Emission Fees and Process  
Information

### II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
2,340 Facilities (listed below)	Listed below	\$ 238,547 Cost For This Amendment

Cost estimates are reported as annualized aggregates.

### III. WORKSHEET

	EQ Fee Costs		
	FY2006	FY2007**	Annualized Aggregate
EQ Fees ( \$35.50 Fee)	\$8,153,373	\$8,094,908	\$7,895,249

	EQ Fee Costs		
	FY2006	FY2007**	Annualized Aggregate
EQ Fees ( \$33.00 Fee)	\$7,318,435	\$7,391,619	\$7,656,702

Total Aggregate Cost For This Amendment***	\$238,547
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\*See Assumption 3.

\*\*The first full fiscal year for this rulemaking is FY2007.

\*\*\*Difference in annualized aggregate costs when raising \$33.00 fee to \$35.50 .

#### List of Affected Entities:

SIC Code	SIC Description	Number of Facilities
01	AGRICULTURAL PRODUCTION-CROPS	0
02	AGRICULTURAL PRODUCTION-LIVESTOCK AND ANIMAL SPECIALTIES	1
07	AGRICULTURAL SERVICES	50

SIC Code	SIC Description	Number of Facilities
08	FORESTRY	0
09	FISHING, HUNTING AND TRAPPING	0
10	METAL MINING	6
12	COAL MINING	4
13	OIL AND GAS EXTRACTION	0
14	MINING AND QUARRYING OF NONMETALLIC MINERALS, EXCEPT FUELS	303
15	BUILDING CONSTRUCTION-GENERAL CONTRACTORS AND OPERATIVE	1
16	HEAVY CONSTRUCTION OTHER THAN BUILDING CONSTRUCTION	0
17	CONSTRUCTION-SPECIAL TRADE CONTRACTORS	2
20	FOOD AND KINDRED PRODUCTS	114
21	TOBACCO PRODUCTS	0
22	TEXTILE MILL PRODUCTS	1
23	APPAREL AND OTHER FINISHED PRODUCTS MADE FROM FABRICS	0
24	LUMBER AND WOOD PRODUCTS, EXCEPT FURNITURE	59
25	FURNITURE AND FIXTURES	23
26	PAPER AND ALLIED PRODUCTS	22
27	PRINTING, PUBLISHING, AND ALLIED INDUSTRIES	61
28	CHEMICALS AND ALLIED PRODUCTS	129
29	PETROLEUM REFINING AND RELATED INDUSTRIES	120
30	RUBBER AND MISCELLANEOUS PLASTICS PRODUCTS	62
31	LEATHER AND LEATHER PRODUCTS	6
32	STONE, CLAY, GLASS, AND CONCRETE PRODUCTS	343
33	PRIMARY METAL INDUSTRIES	46
34	FABRICATED METAL PRODUCTS, EXCEPT MACHINERY AND TRANSPORTATION	77

SIC Code	SIC Description	Number of Facilities
35	INDUSTRIAL AND COMMERCIAL MACHINERY AND COMPUTER EQUIPMENT	46
36	ELECTRONIC AND OTHER ELECTRICAL EQUIPMENT AND COMPONENTS	35
37	TRANSPORTATION EQUIPMENT	66
38	MEASURING, ANALYZING, AND CONTROLLING INSTRUMENTS	3
39	MISCELLANEOUS MANUFACTURING INDUSTRIES	17
40	RAILROAD TRANSPORTATION	0
41	LOCAL AND SUBURBAN TRANSIT AND INTERURBAN HIGHWAY PASSENGER	1
42	MOTOR FREIGHT TRANSPORTATION AND WAREHOUSING	11
43	UNITED STATES POSTAL SERVICE	0
44	WATER TRANSPORTATION	3
45	TRANSPORTATION BY AIR	2
46	PIPELINES, EXCEPT NATURAL GAS	24
47	TRANSPORTATION SERVICES	4
48	COMMUNICATIONS	5
49	ELECTRIC, GAS, SANITARY SERVICES, AND LANDFILLS	94
50	WHOLESALE TRADE-DURABLE GOODS	18
51	WHOLESALE TRADE-NON-DURABLE GOODS	144
52	BUILDING MATERIALS, HARDWARE, GARDEN	0
53	GENERAL MERCHANDISE STORES	0
54	FOOD STORES	0
55	AUTOMOTIVE DEALERS AND GASOLINE SERVICE STATIONS	1
56	APPAREL AND ACCESSORY STORES	0
57	HOME FURNITURE, FURNISHINGS, AND EQUIPMENT STORES	0
58	EATING AND DRINKING PLACES	0
59	MISCELLANEOUS RETAIL	1
60	DEPOSITORY INSTITUTIONS	0

SIC Code	SIC Description	Number of Facilities
61	NONDEPOSITORY CREDIT INSTITUTIONS	0
62	SECURITY & COMMODITY BROKERS, DEALERS	0
63	INSURANCE CARRIERS	0
64	INSURANCE AGENTS, BROKERS AND SERVICES	0
65	REAL ESTATE	2
67	HOLDING AND OTHER INVESTMENT OFFICES	1
70	HOTELS, ROOMING HOUSES, CAMPS, AND OTHER LODGING PLACES	1
72	PERSONAL SERVICES AND DRY CLEANERS	331
73	BUSINESS SERVICES	4
75	AUTOMOTIVE REPAIR, SERVICES, AND PARKING	6
76	MISCELLANEOUS REPAIR SERVICES	1
78	MOTION PICTURES	0
79	AMUSEMENT AND RECREATION SERVICES	1
80	HEALTH SERVICES	36
81	LEGAL SERVICES	0
82	EDUCATIONAL SERVICES	6
83	SOCIAL SERVICES	1
84	MUSEUMS, ART GALLERIES, AND BOTANICAL AND ZOOLOGICAL GARDENS	0
86	MEMBERSHIP ORGANIZATIONS	0
87	ENGINEERING, ACCOUNTING, RESEARCH, MANAGEMENT, AND RELATED	4
88	PRIVATE HOUSEHOLDS	0
89	SERVICES NOT ELSEWHERE CLASSIFIED	0
91	EXECUTIVE, LEGISLATIVE, AND GENERAL GOVERNMENT, EXCEPT FINANCE	0
92	JUSTICE, PUBLIC ORDER AND SAFETY	3
93	PUBLIC FINANCE, TAXATION & MONETARY	0
94	ADMINISTRATION OF HUMAN RESOURCE PERSONNEL	0
95	ADMINISTRATION OF ENVIRONMENTAL QUALITY AND HOUSING PROGRAMS	0

SIC Code	SIC Description	Number of Facilities
96	ADMINISTRATION OF ECONOMIC PROGRAMS	1
97	NATIONAL SECURITY AND INTERNATIONAL AFFAIRS	1
99	UNKNOWN	36
Total Facilities		2,340

#### IV. ASSUMPTIONS

1. For the convenience of calculating this fiscal note over a reasonable time frame, the life of the rule is assumed to be ten (10) years although the duration of the rule is indefinite. If the life of the rule extends beyond ten years, the annual costs for additional years will be consistent with the assumptions used to calculate annual costs as identified in this fiscal note.
2. The private entity costs are fee collection estimates. The costs are based on the most recent data available to the department and are expected to be more accurate than previous fiscal notes for the same fiscal years.
3. The fees for emissions produced during the previous calendar year shall be due April 1 each year for all United States Department of Labor Standard Industrial Classifications except for Standard Industrial Classification 4911 Electric Services which shall be due June 1 each year. For example, costs for all calendar year 2005 emission fees are received by the Missouri Department of Natural Resources between January 1, 2006 and June 30, 2006.
4. Cost and affected entity estimates are based on data presently entered in the tracking systems of the Missouri Department of Natural Resources' Air Pollution Control Program. This data is subject to change as additional information is reviewed, updated, and entered.
5. Fees for private entities are based on \$35.50 per ton of regulated air pollutant for calendar 2005. This fee represents an \$2.50 dollar increase from the emissions fee of \$33.00 per ton of regulated air pollutant for calendar year 2004.
6. The emission fees paid by private entities may vary depending on their current information and their chargeable emissions with fees remaining relatively constant. However, new controls decrease the amount of their emission fees.
7. The percent difference between the two most recent years of actual facility emissions is used to project future year facility emissions.
8. Compliance and EIQ preparation costs reported on EIQs are not included in this fiscal note because these costs are not a result of this rulemaking. Compliance and preparation costs have been included in fiscal notes for the rulemakings that implemented these requirements.

**COMMENTS AND RESPONSES ON  
PROPOSED REVISIONS TO THE  
MISSOURI STATE IMPLEMENTATION PLAN –  
UPDATE TO KANSAS CITY MAINTENANCE PLAN FOR CONTROL OF OZONE  
AND  
RECOMMENDATION FOR ADOPTION**

On June 30, 2005, the Missouri Air Conservation Commission held a public hearing concerning incorporating references to the new eight hour ozone standard in the 2002 Kansas City Maintenance Plan for the Control of Ozone. The following is a summary of comments received and the Missouri Department of Natural Resources' corresponding responses. Any changes to the proposed state implementation plan are identified in the responses to the comments.

The Missouri Department of Natural Resources' Air Pollution Control Program recommends the commission adopt the plan action as amended. If the commission adopts this plan action, it will be the department's intention to submit this plan action to the U.S. Environmental Protection Agency to replace the current plan that is in the Missouri State Implementation Plan.

**SUMMARY OF COMMENTS:** The department's Air Pollution Control Program received a total of four (4) comments from the Mid-America Regional Council (MARC) and the U.S. Environmental Protection Agency (EPA) on the proposed State Implementation Plan (SIP) revisions.

**COMMENT:** MARC commented that they are in support of this SIP revision in order to address any possible violations of the new eight-hour ozone standard.

**RESPONSE:** The department's Air Pollution Control Program appreciates the support for this SIP revision. No changes were made as a result of this comment.

**COMMENT:** EPA commented that the abbreviation KCMA is used inconsistently in the document to refer to both the Kansas City Metropolitan Area and the Kansas City Maintenance Area. In order to assure that confusion does not arise, the EPA recommends that the abbreviation be used to refer to only one of the two possibilities.

**RESPONSE AND EXPLANATION OF CHANGE:** Using the same abbreviation for two different phrases is confusing and inconsistent. Therefore, references throughout the document have been changed to reflect the abbreviation's usage in representing only the phrase Kansas City Maintenance Area.

**COMMENT:** EPA commented that the Kansas City Maintenance Plan mentions both transportation conformity and mobile source emissions budgets. In light of the fact that transportation conformity is no longer required in the Kansas City area, EPA suggests adding



additional explanation for continuing to include the mobile source emissions budget in the document.

**RESPONSE AND EXPLANATION OF CHANGE:** The department's Air Pollution Control Program has added clarification as to the continued inclusion of the mobile source emissions budget in the document, stating that the mobile vehicle emissions budget has been kept in the the Kansas City Maintenance Plan for emissions inventory and historical reference purposes.

**COMMENT:** EPA commented that the Kansas City Maintenance Plan does not offer a specific time period for the implementation of contingency measures.

**RESPONSE AND EXPLANATION OF CHANGE:** The department's Air Pollution Control Program has modified the discussion of contingency measure adoption and implementation to include a specific time period for completion of these actions.

**COMMENTS AND RESPONSES ON  
PROPOSED REVISIONS TO THE  
MISSOURI STATE IMPLEMENTATION PLAN —  
DOE RUN HERCULANEUM, MODIFICATION TO CONSENT JUDGEMENT  
AND  
RECOMMENDATION FOR ADOPTION**

On June 30, 2005, the Missouri Air Conservation Commission held a public hearing concerning the revision to the Doe Run Herculanum Consent Judgement in the Missouri State Implementation Plan (SIP). The following is a summary of comments received and the Missouri Department of Natural Resources' corresponding responses. Any changes to the proposed state implementation plan are identified in the responses to the comments.

The Missouri Department of Natural Resources' Air Pollution Control Program recommends the commission adopt the plan action as amended. If the commission adopts this plan action, it will be the department's intention to submit this plan action to the U.S. Environmental Protection Agency (EPA) to replace the current plan that is in the Missouri State Implementation Plan.

**SUMMARY OF COMMENTS:** The department received comments from the EPA on the proposed SIP revision. These comments generally asked that we assure that the proposed change in bags would not result in a relaxation of current enforceable SIP controls.

**COMMENT:** EPA commented that the state must provide documentation demonstrating that the new bags will be as durable as the Teflon membrane bags currently in use.

**RESPONSE AND EXPLANATION OF CHANGE:** Doe Run has requested this documentation from the vendor. This information will be included in the SIP submittal package. If the vendor is unable to provide definitive assurance of increased durability, the SIP submittal will include an explanation of how Doe Run will monitor bag performance and replace any bags that fail in a time critical manner.

**COMMENT:** EPA commented that they cannot approve a revision to the SIP unless there is an adequate demonstration through emissions testing that the new bags will meet the performance standard established in the current SIP-approved Consent Judgement.

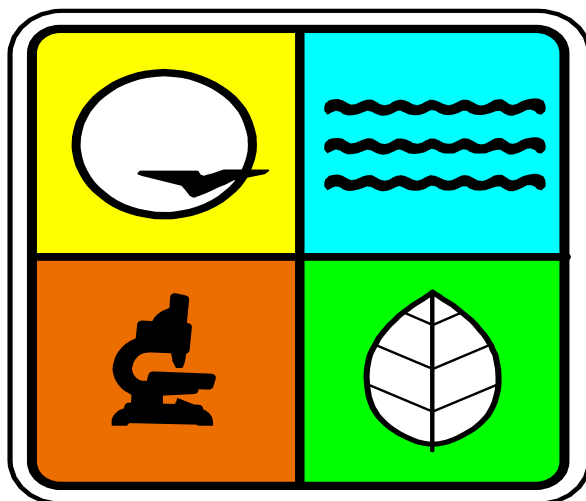
**RESPONSE AND EXPLANATION OF CHANGE:** As a result of this comment the Modification to the Consent Judgement has been amended to include a requirement that performance tests be performed on the baghouse after the new bags have been installed. Doe Run has also provided a letter from their vendor, GE Energy, stating that the new bags will meet the performance specification.

# **Missouri State Implementation Plan**

## **Doe Run Herculaneum**

### **Modification to Consent Judgement**

Adoption — July 21, 2005



Department of Natural Resources  
Air and Land Protection Division

Air Pollution Control Program  
P.O. Box 176  
Jefferson City, Missouri 65102  
Telephone: (573) 751-4817

## **Doe Run Herculaneum State Implementation Plan (SIP) Revision**

This document is intended to serve as a revision to the existing lead SIP (January 2001 revision) for the Herculaneum, Missouri, nonattainment area. The Doe Run Company would like to replace the current Teflon membrane bags used for air filtration as specified in Section 2.A.1.c of the existing January 2001 SIP revision.

One of the elements that makes the January 2001 SIP revision enforceable is the Consent Judgement. This document specifically requires the use of “teflon membrane filter bags”. This phrase was included in the Consent Judgement because this was the type of material that Doe Run was specifying at the time. The #9 baghouse services the building air from the refinery building and it was designed and installed with a very high air-to-cloth ratio justified by the very low expected amount of dust and fume collected. This design, however, resulted in other operational issues such as bag cleaning and high operating pressure differentials which reduced bag life and lead to higher maintenance and energy consumption costs.

The bags that Doe Run plans to install are spun-bound pleated filter elements that have approximately twice the filter area as the original bags. This will significantly reduce the air-to-cloth ratios improving the design. Doe Run’s vendor, GE Energy, has assured Doe Run in writing that the pleated bags will meet the Total Suspended Particulate limits (0.022 grains per dry standard cubic foot) required in the Consent Judgement. A copy of the letter from GE Energy is attached. Meeting this baghouse performance standard will assure that the emission rates will not exceed those modeled in the January 2001 attainment demonstration.

To accommodate this administrative change requires a modification to the Consent Judgement. The original Consent Judgement and the modification are attached. The modification asks the court to remove the phrase “and utilize teflon membrane bags” from four locations in the original Consent Judgement. This minor administrative change will allow Doe Run to use the new filter elements, but it will not relieve the company from any other requirements of the January 2001 Consent Judgement.

Once installed, Doe Run has agreed to perform emissions testing to assure that the new filter elements will meet the performance standards required in the January 2001 Consent Judgement. The modification to the Consent Judgement includes this testing requirement.

All other enforceable requirements of the January 2001 SIP revision are to be maintained including; 10 CSR 10-6.120 Restriction of Emissions of Lead from Specific Lead Smelter-Refinery Operations and the Work Practice Manual.

**IN THE CIRCUIT COURT OF JEFFERSON COUNTY  
STATE OF MISSOURI**

<b>STATE OF MISSOURI, ex rel.</b>	)	
<b>JEREMIAH W. (JAY) NIXON, ATTORNEY</b>	)	
<b>GENERAL OF MISSOURI, the</b>	)	
<b>MISSOURI DEPARTMENT OF NATURAL</b>	)	
<b>RESOURCES, and THE MISSOURI AIR</b>	)	
<b>CONSERVATION COMMISSION,</b>	)	
)		
<b>Plaintiff,</b>	)	
)		
<b>v.</b>	)	<b>Case No. CV301-0052CCJI</b>
)		
<b>THE DOE RUN RESOURCES COMPANY,</b>	)	
<b>d/b/a, THE DOE RUN COMPANY</b>	)	
)		
<b>Defendant.</b>	)	

**CONSENT JUDGMENT MODIFICATION**

WHEREAS, this action was commenced by the State of Missouri ex rel. Jeremiah W. (Jay) Nixon, Attorney General of Missouri, and the Missouri Department of Natural Resources ("MDNR"), seeking injunctive relief and civil penalties against defendant The Doe Run Resources Company, d/b/a, The Doe Run Company (Doe Run), for alleged violations of the Missouri Air Conservation Law, Chapter 643, RSMo and its implementing regulations.

WHEREAS, on January 5, 2001, this Court entered and approved the Consent Judgment in the above-styled case.

WHEREAS, pursuant to Section F of the Consent Judgment, the parties may agree to modify the Judgment if the modification is in writing and approved by this Court.

WHEREAS, certain provisions of the Consent Judgment mandate that Doe Run use a specific type of filter bags in baghouses used to control lead emissions from the smelter, and Doe Run has since determined that another type of filter bag may provide the same or better control over the emissions of lead from the smelter.

NOW, THEREFORE, the parties agree that the Consent Judgment may be modified as follows and this Court hereby approves the Modification.

1. Paragraphs A.1.b., A.1.c. and A.3.b. are modified to delete the phrase “and utilize Teflon membrane filter bags” all four times it appears in said paragraphs.

2. Paragraph B.9. is added as follows:

Compliance with the design specification of #9 baghouse of 0.022 grains per dry standard cubic foot of total suspended particulate as required in paragraph A.1.c. shall be demonstrated to MDNR by Doe Run, through tests conducted at Doe Run’s expense in accordance with approved EPA methods. Doe Run shall notify MDNR of the proposed test dates and provide a copy of the test protocol to MDNR at least 30 days before testing. Test reports, including raw data, shall be submitted to MDNR within 60 working days of the completion of the test report.

3. All other provisions, terms and conditions of the Consent Judgment remain in full force and effect.

WE HEREBY CONSENT to this Modification of the Consent Judgment:  
MISSOURI DEPARTMENT OF NATURAL RESOURCES

\_\_\_\_\_  
Dan Schuette  
Interim Director, Air and Land Protection Division

Date: \_\_\_\_\_

JEREMIAH W. (JAY) NIXON  
Attorney General

\_\_\_\_\_  
Shelley A. Woods  
Assistant Attorney General

Date: \_\_\_\_\_

THE DOE RUN RESOURCES COMPANY

BY: \_\_\_\_\_

Date: \_\_\_\_\_

TITLE: \_\_\_\_\_

ENTERED: \_\_\_\_\_

Date

\_\_\_\_\_  
Circuit Judge

**COMMENTS AND RESPONSES ON  
PROPOSED AMENDMENT**

**10 CSR 10-2.390**

**CONFORMITY TO STATE OR FEDERAL IMPLEMENTATION PLANS OF  
TRANSPORTATION PLANS, PROGRAMS, AND PROJECTS DEVELOPED, FUNDED  
OR APPROVED UNDER TITLE 23 U.S.C. OR THE FEDERAL TRANSIT LAWS**

**AND**

**RECOMMENDATION FOR ADOPTION**

On June 30, 2005, the Missouri Air Conservation Commission held a public hearing concerning the proposed amendment to 10 CSR 10-2.390 Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws. The following is a summary of comments received and the Missouri Department of Natural Resources' Air Pollution Control Program corresponding responses. Any changes to the proposed amendment are identified in the responses to the comments.

The Missouri Department of Natural Resources' Air Pollution Control Program recommends the commission adopt the rule action as revised.

*NOTE 1 - Legend for rule actions to be voted on is as follows:*

- \* Shaded Text - Rule sections or subsections unchanged from Public Hearing. This text is only for reference.*
- \* Unshaded Text - Rule sections or subsections that are changed from the proposed text presented at the Public Hearing, as a result of comments received during the public comment period.*

*NOTE 2 - All unshaded text below this line will be printed in the Missouri Register.*

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**Title 10 - DEPARTMENT OF  
NATURAL RESOURCES**

**Division 10 - Air Conservation Commission**

**Chapter 2 – Air Quality Standards and Air Pollution Control Rules Specific to the  
Kansas City Metropolitan Area**



## ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission amends a rule as follows:

10 CSR 10-2.390 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 2, 2005, (30 MoReg 797-817). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** The Missouri Department of Natural Resources' Air Pollution Control Program received comments from the Missouri Department of Transportation (MODOT) and the U.S. Environmental Protection Agency (EPA).

**COMMENT:** MODOT commented that throughout the rule the Federal Transit Administration Code is referred to as the Federal Transit Law. MODOT advised that it should be revised to read Title 49 U.S.C.

**RESPONSE AND EXPLANATION OF CHANGE:** The department's Air Pollution Control Program has made the proposed reference change throughout the rule.

**COMMENT:** MODOT commented that section (2) of the rule should be revised to reflect the recent designation of the Kansas City area to attainment for the 8-hour ozone standard.

**RESPONSE AND EXPLANATION OF CHANGE:** The department's Air Pollution Control Program has revised section (2) to reflect Kansas City's attainment of the 8-hour ozone standard.

**COMMENT:** MODOT commented that the rule title is rather unwieldy and wordy in length and suggested revising it to reflect the metropolitan area and subject matter with more brevity for clarification.

**RESPONSE AND EXPLANATION OF CHANGE:** The department's Air Pollution Control Program has revised the rule title as suggested.

**COMMENT:** EPA suggested that in subsection (2)(C) of the rule that the *Code of Federal Regulations* references sec. 93.114 and sec. 93.114(b) be revised to section (14) and subsection (14)(B) for consistency as the *Code of Federal Regulations* references and the references within the rule are identically worded.

**RESPONSE AND EXPLANATION OF CHANGE:** The department's Air Pollution Control Program has made the recommended reference revision.

**COMMENT:** EPA suggested that in new section (23) Procedures for Determining Localized CO and PM<sub>10</sub> Concentrations (Hot-Spot Analysis) should have the PM<sub>10</sub> hot-spot analysis procedures added to the section to make the State Implementation Plan consistent with Federal rules.

**RESPONSE AND EXPLANATION OF CHANGE:** The department's Air Pollution Control Program has made the recommended procedures addition to the rule section.

## 10 CSR 10-2.390 Kansas City Area Transportation Conformity Requirements

### (1) Definitions.

- (A) Terms used but not defined in this rule shall have the meaning given them by the Clean Air Act (CAA), Titles 23 and 49 *United States Code* (U.S.C.), other United States Environmental Protection Agency (EPA) regulations, other United States Department of Transportation (DOT) regulations, or other state or local air quality or transportation rules, in that order of priority. Definitions for some terms used in this rule may be found in 10 CSR 10-6.020.
- (B) Additional definitions specific to this rule are as follows:
1. One (1)-hour ozone National Ambient Air Quality Standard (NAAQS)—the one (1)-hour ozone national ambient air quality standard codified at 40 CFR 50.9;
  2. Eight (8)-hour ozone National Ambient Air Quality Standard (NAAQS)—the eight (8)-hour ozone national ambient air quality standard codified at 40 CFR 50.10;
  3. Applicable implementation plan—defined in section 302(q) of the CAA, the portion (or portions) of the implementation plan for ozone, or most recent revision thereof, which has been approved under section 110, or promulgated under section 110(c), or promulgated or approved pursuant to regulations promulgated under section 301(d) and which implements the relevant requirements of the CAA;
  4. CAA—the Clean Air Act, as amended (42 U.S.C., 7401 et seq.);
  5. Cause or contribute to a new violation for a project—
    - A. To cause or contribute to a new violation of a standard in the area substantially affected by the project or over a region which would otherwise not be in violation of the standard during the future period in question, if the project were not implemented; or
    - B. To contribute to a new violation in a manner that would increase the frequency or severity of a new violation of a standard in such area;
  6. Clean data—air quality monitoring data determined by EPA to meet the requirements of 40 *Code of Federal Regulations* (CFR) part 58 that indicate attainment of the national ambient air quality standards;
  7. Consultation—in the transportation conformity process, one (1) party confers with another identified party, provides all information to that party needed for meaningful input, and considers the views of that party and responds to those views in a timely, substantive written manner prior to any final decision on such action. Such views and written response shall be made part of the record of any decision or action;
  8. Control strategy implementation plan revision—the implementation plan which contains specific strategies for controlling the emissions of and reducing ambient levels of pollutants in order to satisfy CAA requirements for demonstrations of reasonable further progress and attainment

(including implementation plan revisions submitted to satisfy CAA sections 172(c), 182(b)(1), 182(c)(2)(A), 182(c)(2)(B), 187(a)(7), 187(g), 189(a)(1)(B), 189(b)(1)(A), and 189(d); sections 192(a) and 192(b), for nitrogen dioxide; and any other applicable CAA provision requiring a demonstration of reasonable further progress or attainment);

9. Design concept—the type of facility identified by the project, e.g., freeway, expressway, arterial highway, grade-separated highway, reserved right-of-way rail transit, mixed traffic rail transit, exclusive busway, etc.;
10. Design scope—the design aspects which will affect the proposed facility's impact on regional emissions, usually as they relate to vehicle or person carrying capacity and control, e.g., number of lanes or tracks to be constructed or added, length of project, signalization, access control including approximate number and location of interchanges, preferential treatment for high-occupancy vehicles, etc.;
11. Donut areas—geographic areas outside a metropolitan planning area boundary, but inside the boundary of a nonattainment or maintenance area that contains any part of a metropolitan area(s). These areas are not isolated rural nonattainment and maintenance areas;
12. DOT—the United States Department of Transportation;
13. EPA—the Environmental Protection Agency;
14. FHWA—the Federal Highway Administration of DOT;
15. FHWA/FTA project—for the purpose of this rule, any highway or transit project which is proposed to receive funding assistance and approval through the Federal-Aid Highway program or the Federal mass transit program, or requires Federal Highway Administration (FHWA) or Federal Transit Administration (FTA) approval for some aspect of the project, such as connection to an interstate highway or deviation from applicable design standards on the interstate system;
16. Forecast period—with respect to a transportation plan, the period covered by the transportation plan pursuant to 23 CFR part 450;
17. FTA—the Federal Transit Administration of DOT;
18. Highway project—an undertaking to implement or modify a highway facility or highway-related program. Such an undertaking consists of all required phases necessary for implementation. For analytical purposes, it must be defined sufficiently to—
  - A. Connect logical *termini* and be of sufficient length to address environmental matters on a broad scope;
  - B. Have independent utility or significance, i.e., be usable and be a reasonable expenditure even if no additional transportation improvements in the area are made; and
  - C. Not restrict consideration of alternatives for other reasonably foreseeable transportation improvements;
19. Horizon year—a year for which the transportation plan describes the envisioned transportation system according to section (6) of this rule;

20. Hot-spot analysis—an estimation of likely future localized carbon monoxide (CO) and particulate matter (PM<sub>10</sub>) pollutant concentrations and a comparison of those concentrations to the national ambient air quality standards. Hot-spot analysis assesses impacts on a scale smaller than the entire nonattainment or maintenance area, including, for example, congested roadway intersections and highways or transit terminals, and uses an air quality dispersion model to determine the effects of emissions on air quality;
21. Increase the frequency or severity—to cause a location or region to exceed a standard more often or to cause a violation at a greater concentration than previously existed and/or would otherwise exist during the future period in question, if the project were not implemented;
22. Isolated rural nonattainment and maintenance areas—areas that do not contain or are not part of any metropolitan planning area as designated under the transportation planning regulations. Isolated rural areas do not have federally required metropolitan transportation plans or transportation improvement programs (TIPs) and do not have projects that are part of the emissions analysis of any metropolitan planning organization or (MPO's) metropolitan transportation plan or TIP. Projects in such areas are instead included in statewide transportation improvement programs. These areas are not donut areas;
23. Lapse—the conformity determination for a transportation plan or transportation improvement program (TIP) has expired, and thus there is no currently conforming transportation plan and TIP;
24. Limited maintenance plan—a maintenance plan that EPA has determined meets EPA's limited maintenance plan policy criteria for a given NAAQS and pollutant. To qualify for a limited maintenance plan, for example, an area must have a design value that is significantly below a given NAAQS, and it must be reasonable to expect that a NAAQS violation will not result from any level of future motor vehicle emissions growth;
25. Maintenance area—any geographic region of the United States previously designated nonattainment pursuant to the CAA Amendments of 1990 and subsequently redesignated to attainment subject to the requirement to develop a maintenance plan under section 175A of the CAA, as amended;
26. Maintenance plan—an implementation plan under a section 175A of the CAA, as amended;
27. Metropolitan planning area—the geographic area in which the metropolitan transportation planning process required by 23 U.S.C. 134 and section 8 of the Federal Transit Act must be carried out;
28. Metropolitan planning organization (MPO)—that organization designated as being responsible, together with the state, for conducting the continuing, cooperative, and comprehensive planning process under 23 U.S.C. 134 and Title 49 U.S.C. 5303. It is the forum for cooperative transportation decision-making. The Mid-America Regional Council is the MPO for the Kansas City metropolitan area and the organization

responsible for conducting the planning required under section 174 of the CAA;

29. Milestone—the meaning given in CAA sections 182(g)(1) and 189(c) for serious and above ozone nonattainment areas and PM<sub>10</sub> nonattainment areas, respectively. For all other nonattainment areas, a milestone consists of an emissions level and the date on which that level is to be achieved as required by the applicable CAA provision for reasonable further progress towards attainment;
30. Motor vehicle emissions budget—that portion of the total allowable emissions defined in the submitted or approved control strategy implementation plan revision or maintenance plan for a certain date for the purpose of meeting reasonable further progress milestones or demonstrating attainment or maintenance of the National Ambient Air Quality Standards (NAAQS), for any criteria pollutant or its precursors, allocated to highway and transit vehicle use and emissions. For purposes of meeting the conformity test required under sections (18) and /or (19) of this rule, the motor vehicle emissions budget in the applicable Missouri State Implementation Plan shall be combined with the motor vehicle emissions budget for the same pollutant in the applicable Kansas State Implementation Plan;
31. National ambient air quality standards (NAAQS)—those standards established pursuant to section 109 of the CAA;
32. NEPA—the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.);
33. NEPA process completion—for the purposes of this rule, with respect to FHWA or FTA, the point at which there is a specific action to make a determination that a project is categorically excluded, to make a Finding of No Significant Impact, or to issue a record of decision on a Final Environmental Impact Statement under NEPA;
34. Nonattainment area—any geographic region of the United States which has been designated as nonattainment under section 107 of the CAA for any pollutant for which a national ambient air quality standard exists;
35. Project—a highway project or transit project;
36. Protective finding—a determination by EPA that a submitted control strategy implementation plan revision contains adopted control measures or written commitments to adopt enforceable control measures that fully satisfy the emissions reductions requirements relevant to the statutory provision for which the implementation plan revision was submitted, such as reasonable further progress or attainment;
37. Recipient of funds designated under Title 23 U.S.C. or Title 49 U.S.C. — any agency at any level of state, county, city, or regional government that routinely receives Title 23 U.S.C. or Federal Transit Laws funds to construct FHWA/FTA projects, operate FHWA/FTA projects or equipment, purchase equipment, or undertake other services or operations via contracts or agreements. This definition does not include private

- landowners or developers, or contractors or entities that are only paid for services or products created by their own employees;
38. Regionally significant project—a transportation project (other than an exempt project) that is on a facility which serves regional transportation needs (such as access to and from the area outside of the region, major activity centers in the region, major planned developments such as new retail malls, sports complexes, etc., or transportation terminals, as well as most terminals themselves) and would normally be included in the modeling of a metropolitan area's transportation network, including at a minimum: all principal arterial highway and all fixed guideway transit facilities that offer an alternative to regional highway travel;
  39. Safety margin—the amount by which the total projected emissions from all sources of a given pollutant are less than the total emissions that would satisfy the applicable requirement for reasonable further progress, attainment, or maintenance;
  40. Standard—a national ambient air quality standard;
  41. Statewide transportation improvement program (STIP)—a staged, multi-year, intermodal program of transportation projects which is consistent with the statewide transportation plan and planning processes and metropolitan transportation plans, transportation improvement programs (TIPs) and processes, developed pursuant to 23 CFR part 450;
  42. Statewide transportation plan—the official statewide, intermodal transportation plan that is developed through the statewide transportation planning process, pursuant to 23 CFR part 450;
  43. Transit—mass transportation by bus, rail, or other conveyance which provides general or special service to the public on a regular and continuing basis. It does not include school buses or charter or sightseeing services;
  44. Transit project—an undertaking to implement or modify a transit facility or transit-related program; purchase transit vehicles or equipment; or provide financial assistance for transit operations. It does not include actions that are solely within the jurisdiction of local transit agencies, such as changes in routes, schedules, or fares. It may consist of several phases. For analytical purposes, it must be defined inclusively enough to—
    - A. Connect logical *termini* and be of sufficient length to address environmental matters on a broad scope;
    - B. Have independent utility or independent significance, i.e., be a reasonable expenditure even if no additional transportation improvements in the area are made; and
    - C. Not restrict consideration of alternatives for other reasonably foreseeable transportation improvements;
  45. Transportation control measure (TCM)—any measure that is specifically identified and committed to in the applicable implementation plan that is either one (1) of the types listed in section 108 of the CAA, or any other measure for the purpose of reducing emissions or concentrations of air

pollutants from transportation sources by reducing vehicle use or changing traffic flow or congestion conditions. Notwithstanding the first sentence of this definition, vehicle technology-based, fuel-based, and maintenance-based measures which control the emissions from vehicles under fixed traffic conditions are not TCMs for the purposes of this rule;

46. Transportation improvement program (TIP)—a staged, multiyear, intermodal program of transportation projects covering a metropolitan planning area which is consistent with the metropolitan transportation plan, and developed pursuant to 23 CFR part 450;
47. Transportation plan—the official intermodal metropolitan transportation plan that is developed through the metropolitan planning process for the metropolitan planning area, developed pursuant to 23 CFR part 450;
48. Transportation project—a highway project or a transit project; and
49. Written commitment—for the purposes of this rule, a written commitment that includes a description of the action to be taken; a schedule for the completion of the action; a demonstration that funding necessary to implement the action has been authorized by the appropriating or authorizing body; and an acknowledgement that the commitment is an enforceable obligation under the applicable implementation plan.

- (2) Applicability. After EPA revokes the 1-hour ozone standard, if any Missouri portion of the Kansas City metropolitan area is redesignated as a nonattainment area for any transportation-related criteria pollutant, the provisions of this rule shall apply to the Missouri counties and the portions of Missouri counties located within the redesignated nonattainment area.

(A) Action Applicability.

1. Except as provided for in subsection (2)(C) of this rule or section (26), conformity determinations are required for—
  - A. The adoption, acceptance, approval or support of transportation plans and transportation plan amendments developed pursuant to 23 CFR part 450 or 49 CFR part 613 by a MPO or DOT;
  - B. The adoption, acceptance, approval or support of TIPs and TIP amendments developed pursuant to 23 CFR part 450 or 49 CFR part 613 by a MPO or DOT; and
  - C. The approval, funding, or implementation of FHWA/FTA projects.
2. Conformity determinations are not required under this rule for individual projects which are not FHWA/FTA projects. However, section (21) applies to such projects if they are regionally significant.

(B) Emissions Applicability.

1. The provisions of this rule apply with respect to emissions of the following criteria pollutant: ozone, carbon monoxide (CO), nitrogen dioxide (NO<sub>2</sub>), particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM<sub>10</sub>); and particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers (PM<sub>2.5</sub>).

2. The provisions of this rule also apply with respect to emissions of the following precursor pollutants:
    - A. Volatile organic compounds (VOC) and nitrogen oxides (NO<sub>x</sub>) in ozone areas;
    - B. NO<sub>x</sub> in NO<sub>2</sub> areas; and
    - C. VOC and/or NO<sub>x</sub> in PM<sub>10</sub> areas if the EPA regional administrator or the director of the state air agency has made a finding that transportation-related emissions of one (1) or both of these precursors within the nonattainment area are a significant contributor to the PM<sub>10</sub> nonattainment problem and has so notified the MPO and DOT, or if applicable implementation plan (or implementation plan submission) establishes an approved (or adequate) budget for such emissions as part of the reasonable further progress, attainment or maintenance strategy.
  3. The provisions of this rule apply to PM<sub>2.5</sub> nonattainment and maintenance areas with respect to PM<sub>2.5</sub> from re-entrained road dust if the EPA regional administrator or the director of the state air agency has made a finding that re-entrained road dust emissions within the area are a significant contributor to the PM<sub>2.5</sub> nonattainment problem and has so notified the MPO and DOT, or if the applicable implementation plan (or implementation plan submission) includes re-entrained road dust in the approved (or adequate) budget as part of the reasonable further progress, attainment or maintenance strategy. Re-entrained road dust emissions are produced by travel on paved and unpaved roads (including emissions from anti-skid and deicing materials).
  4. The provisions of this rule apply to the Clay, Jackson and Platte Counties maintenance area for twenty (20) years from the date EPA approves the area's request under section 107(d) of the CAA for redesignation to attainment, unless the applicable implementation plan specifies that the provisions of this rule shall apply for more than twenty (20) years.
- (C) Limitations. In order to receive any FHWA/FTA approval or funding actions, including NEPA approvals, for a project phase subject to this subpart, a currently conforming transportation plan and TIP must be in place at the time of project approval as described in section (14), except as provided by subsection (14)(B).
1. Projects subject to this rule for which the NEPA process and a conformity determination have been completed by DOT may proceed toward implementation without further conformity determinations unless more than three (3) years have elapsed since the most recent major step (NEPA process completion; start of final design; acquisition of a significant portion of the right-of-way; or approval of the plans, specifications and estimates) occurred. All phases of such projects which were considered in the conformity determination are also included, if those phases were for the purpose of funding final design, right-of-way acquisition, construction, or any combination of these phases.



2. A new conformity determination for the project will be required if there is a significant change in project design concept and scope, if a supplemental environmental document for air quality purposes is initiated, or if three (3) years have elapsed since the most recent major step to advance the project occurred.

- (D) Grace Period For New Nonattainment Areas. For areas or portions of areas which have been continuously designated attainment or not designated for any NAAQS for ozone, CO, PM<sub>10</sub>, PM<sub>2.5</sub> or NO<sub>2</sub> since 1990 and are subsequently redesignated to nonattainment or designated nonattainment for any NAAQS for any of these pollutants, the provisions of this rule shall not apply with respect to that NAAQS for twelve (12) months following the effective date of final designation to nonattainment for each NAAQS for such pollutant.
- (3) Priority. When assisting or approving any action with air quality-related consequences, FHWA and FTA shall give priority to the implementation of those transportation portions of an applicable implementation plan prepared to attain and maintain the NAAQS. This priority shall be consistent with statutory requirements for allocation of funds among states or other jurisdictions.
  - (4) Frequency of Conformity Determinations.
    - (A) Conformity determinations and conformity redeterminations for transportation plans, TIPs, and FHWA/FTA projects must be made according to the requirements of this section and the applicable implementation plan.
    - (B) Frequency of Conformity Determinations for Transportation Plans.
      1. Each new transportation plan must be demonstrated to conform before the transportation plan is approved by the MPO or accepted by DOT.
      2. All transportation plan revisions must be found to conform before the transportation plan revisions are approved by the MPO or accepted by DOT, unless the revision merely adds or deletes exempt projects listed in sections (26) and (27) and has been made in accordance with the notification provisions of subparagraph (5)(C)1.F. The conformity determination must be based on the transportation plan and the revision taken as a whole.
      3. The MPO and DOT must determine the conformity of the transportation plan (including a new regional emissions analysis) no less frequently than every three (3) years. If more than three (3) years elapse after DOT's conformity determination without the MPO and DOT determining conformity of the transportation plan, the existing conformity determination will lapse.
    - (C) Frequency of Conformity Determinations for Transportation Improvement Programs.
      1. A new TIP must be demonstrated to conform before the TIP is approved by the MPO or accepted by DOT.
      2. A TIP amendment requires a new conformity determination for the entire TIP before the amendment is approved by the MPO or accepted by DOT,

unless the amendment merely adds or deletes exempt projects listed in section (26) or section (27) and has been made in accordance with the notification provisions of subparagraph (5)(C)1.G.

3. The MPO and DOT must determine the conformity of the TIP (including a new regional emissions analysis) no less frequently than every three (3) years. If more than three (3) years elapse after DOT's conformity determination without the MPO and DOT determining conformity of the TIP, the existing conformity determination will lapse.
- (D) Projects. FHWA/FTA projects must be found to conform before they are adopted, accepted, approved, or funded. Conformity must be redetermined for any FHWA/FTA project if one (1) of the following occurs: a significant change in the project's design concept and scope; three (3) years elapsed since the most recent major step to advance the project; or initiation of a supplemental environmental document for air quality purposes. Major steps include NEPA process completion; start of final design; acquisition of a significant portion of the right-of-way; and, construction (including federal approval of plans, specifications and estimates).
- (E) Triggers for Transportation Plan and TIP Conformity Determinations. Conformity of existing transportation plans and TIPs must be redetermined within eighteen (18) months of the following, or the existing conformity determination will lapse, and no new project-level conformity determinations may be made until conformity of the transportation plan and TIP has been determined by the MPO and DOT—
1. The effective date of EPA's finding that motor vehicle emissions budgets from an initially submitted control strategy implementation plan or maintenance plan are adequate pursuant to subsection (18)(E) and can be used for transportation conformity purposes;
  2. The effective date of EPA approval of a control strategy implementation plan revision or maintenance plan which establishes or revises a motor vehicle emissions budget if that budget has not yet been used in a conformity determination prior to approval; and
  3. The effective date of EPA promulgation of an implementation plan which establishes or revises a motor vehicle emissions budget.

(5) Consultation.

- (A) General. Procedures for interagency consultation (federal, state, and local), resolution of conflicts, and public consultation are described in subsections (A) through (E) of this section. Public consultation procedures meet the requirements for public involvement in 23 CFR part 450.
1. The implementation plan revision required shall include procedures for interagency consultation (federal, state, and local), resolution of conflicts, and public consultation as described in subsections (A) through (E) of this section. Public consultation procedures will be developed in accordance with the requirements for public involvement in 23 CFR part 450.

2. MPOs and state departments of transportation will provide reasonable opportunity for consultation with state air agencies, local air quality and transportation agencies, DOT, and EPA, including consultation on the issues described in paragraph (C)1. of this section, before making conformity determinations.
- (B) Interagency Consultation Procedures—General Factors.
1. Representatives of the MPO and its regional transportation policy advisory committee, state transportation agencies, state and local air quality agencies, and regional air quality policy advisory organization designated by the state air quality agencies under the provisions of CAA section 174 shall participate in an interagency consultation process in accordance with this section with each other and with FHWA and FTA and EPA on the development of the implementation plan, the list of TCMs in the applicable implementation plan, the unified planning work program under 23 CFR section 450.314, the transportation plan, the TIP, and any revisions to the preceding documents. Use of existing advisory committee structures will be the preferred mechanism for interagency consultation during the early stages of planning or programming processes. Expansion of representation will occur as necessary to assure that consulting agencies have the opportunity to receive background information as it is developed and share ideas and concerns early in the planning or programming process. Where consultation takes place outside of existing advisory committee structures, local government transportation interests will be represented by four (4) persons (representing transit and roadway interests from each state) appointed by the chairs of the regional transportation policy advisory committee and local government air quality interests will be represented by four persons (at least one (1) from each state) appointed by the chairs of the regional air quality advisory organization. The air quality representation shall not duplicate representation from transportation agencies.
  2. Roles and responsibilities of consulting agencies.
    - A. It shall be the affirmative responsibility of the agency(ies) with the responsibility for preparing the final document to initiate the consultation process by notifying other participants of the proposed planning or programming process for the development of the following planning or programming documents: the regional transportation plan and the regional TIP, including revisions, the unified planning work program, and any conformity determinations, with the MPO as the responsible agency; the statewide transportation plan and STIP for northern Clay and northern and western Platte Counties, with the state transportation agency as the responsible agency; and the state air quality implementation plans with motor vehicle emissions budgets and control strategies, including revisions, with the state air quality agency in cooperation with the MPO as the responsible agencies.

- B. The adequacy of the consultation process for each type of document listed in subparagraph (5)(B)2.A. of this rule shall be assured by the agency responsible for that document, by meeting the requirements of parts (5)(B)2.A.(I)–(III) of this rule.
- (I) The proposed planning or programming process must include at a minimum the following:
    - (a) The roles and responsibilities of each agency at each stage in the planning process, including technical meetings;
    - (b) The proposed organizational level of regular consultation;
    - (c) A process for circulating (or providing ready access to) draft documents and supporting materials for comment before formal adoption or publication;
    - (d) The frequency of, or process for convening, consultation meetings and responsibilities for establishing meeting agendas; and
    - (e) A process for responding to the significant comments of involved agencies.
  - (II) The time sequence and adequacy of the consultation process will be reviewed and determined for each type of planning or programming document by consensus of the consultation agencies at a meeting convened by the responsible agency for that purpose. These procedures shall subsequently become binding on all parties until such time as the procedures are revised by consensus of the consulting agencies.
  - (III) As a matter of policy, planning or programming processes must meet two (2) tests—
    - (a) Consultation opportunities must be provided early in the planning process. Early participation is intended to facilitate sharing of information needed for meaningful input and to allow the consulting agencies to confer with the responsible agency during the formative stages of the plan or program. At a minimum, proposed transportation planning or programming processes must specifically include opportunities for the consulting agencies to confer upon the conformity analysis required to make conformity determinations for transportation plans and TIPs prior to consideration of draft documents by the regional air quality advisory organization, the regional transportation policy advisory committee or the state transportation agency for the transportation

planning area outside of the metropolitan planning area for transportation planning. Air quality planning processes must specifically include opportunities for the consulting agencies to confer upon the motor vehicle emissions budget before the budget is considered by the regional air quality advisory organization, the regional transportation policy advisory committee, and the state air quality agency. Additionally, if TCMs are to be considered in transportation plans, TIPs or the state implementation plan, specific opportunities to consult upon TCMs by air quality and transportation agencies must be provided; and

- (b) Additional consultation opportunities must be provided prior to any final action by any responsible agency listed in subparagraph (5)(B)2.A. of this rule. Prior to formal action approving any plan or program, the consulting agencies must be given an opportunity to communicate their views in writing to the responsible agency. The responsible agency must consider the views of the consulting agencies and respond in writing to those views in a timely and complete manner prior to any final action on any plan or program. Such views and written response shall be made part of the record of any decision or action. Opportunities for formal consulting agency comment may run concurrent with other public review time frames. Participation or lack of participation by a consulting agency early in the planning or programming process has no bearing on their opportunity to submit formal comment prior to official action by the responsible agency.

3. Consultation on planning assumptions.

- A. Representatives of the conformity consulting agencies shall meet no less frequently than once per calendar year for the specific purpose of reviewing changes in transportation and air quality planning assumptions that could potentially impact the state implementation plan (SIP) motor vehicle emissions inventory, motor vehicle emissions budget and/or conformity determinations.
- B. It shall be the affirmative responsibility of each of the consulting agencies to advise the MPO of any pending changes in their planning assumptions. The MPO shall be responsible for convening a meeting to review planning assumptions in August of each year, unless an alternate date

is agreed to by the consulting agencies, and at such other times as any of the consulting agencies proposes a change to any of these planning inputs. The purpose of the meeting(s) is to share information and evaluate the potential impacts of any proposed changes in planning assumptions, and to inform each other regarding the timetable and scope of any upcoming studies or analyses that may lead to future revision of planning assumptions.

- C. If any consulting agency proposes to undertake a data collection, planning or study process to evaluate a planning assumption that may have a significant impact on the state implementation plan (SIP) motor vehicle emissions inventory, motor vehicle emissions budget and/or conformity determinations, all of the consulting agencies shall be given an opportunity to provide advisory input into that process. Examples of data, planning or study topics that may be of interest in this context include (but are not limited to):

- (I) Estimates of vehicle miles traveled;
- (II) Estimates of current vehicle travel speeds;
- (III) Regional population and employment projections;
- (IV) Regional transportation modeling assumptions;
- (V) The methodology for determining future travel speeds;
- (VI) The motor vehicle emissions model; and
- (VII) The methodology for estimating future vehicle miles traveled.

- D. Whenever a change in air quality or transportation planning assumptions is proposed that may have a significant impact on the SIP motor vehicle emissions inventory, motor vehicle emissions budget and/or conformity determinations, the agency proposing the change must provide all of the consulting agencies an opportunity to review the basis for the proposed change. All consulting agencies shall be given at least thirty (30) days to evaluate the impact of a proposed change in planning assumptions prior to final action by the agency proposing the change. (In the case of an EPA motor vehicle emissions model change, this would occur as part of the federal rulemaking process.)

4. It shall be the affirmative responsibility of the responsible agency to maintain a complete and accurate record of all agreements, planning and programming processes, and consultation activities required under this rule and to make these documents available for public inspection upon request. In addition, it shall be the affirmative responsibility of the responsible agency to supply the following information for inclusion in a

notebook maintained within the offices of each of the conformity consulting agencies and at local public libraries. The MPO shall be responsible for distribution of information to the libraries. Copies of the following information shall be provided to all of the other consulting agencies and additional copies as the MPO prescribes shall be provided to the MPO for placement in public libraries in the Kansas City region

- A. The full text of any transportation or air quality document specified in paragraph (5)(B)2. of this rule and undergoing public comment pending final action by the responsible agency. Copies for distribution to local libraries must be delivered to the MPO at least three (3) business days prior to the beginning of the public comment period;
- B. Summary of planning and programming processes for transportation plans, TIPs and SIPs identified in paragraph (5)(B)2. of this rule, after approval by consensus of the consulting agencies; and
- C. Reasonably understandable summaries of final planning and programming documents for the general public. This summary information must be accompanied by a complete list of all supporting information, reports, studies, and texts which provide background or further information, along with the location of the documents and instructions on how they can be accessed. Summaries of final documents shall be provided to the other consulting agencies and to the MPO within fourteen (14) days of final approval by the responsible agency. Summaries of the following documents are specifically required:
  - (I) Regional unified planning work program;
  - (II) Official projections of regional population and employment;
  - (III) Regional transportation plan;
  - (IV) State transportation plans for areas within the air quality planning area but outside of the metropolitan planning area for transportation;
  - (V) Regional transportation improvement program;
  - (VI) State transportation improvement program for areas within the air quality planning area but outside of the metropolitan planning area for transportation;
  - (VII) State air quality plan and emissions inventories, including motor vehicle emissions budgets; and
  - (VIII) The most recent analysis upon which a transportation/air quality conformity determination was made for a transportation plan or TIP.

- (C) Interagency Consultation Procedures: Specific Processes. Interagency consultation procedures shall also include the following specific processes:
  - 1. An interagency consultation process in accordance with subsection (5)(B) of this rule involving the MPO, the regional transportation policy advisory

committee, the regional air quality advisory organization, the state transportation and air quality agencies, EPA, FHWA and FTA shall be undertaken for the following:

- A. Evaluating and choosing a model (or models) and associated methods and assumptions to be used in hot-spot analyses and regional emissions analyses;
- B. Determining which minor arterials and other transportation projects should be considered “regionally significant” for the purposes of regional emissions analysis (in addition to those functionally classified as principal arterial or higher or fixed guideway systems or extensions that offer an alternative to regional highway travel), and which projects should be considered to have a significant change in design concept and scope from the transportation plan or TIP. This process shall be initiated by the MPO and conducted in accordance with paragraph (5)(B)3. of this rule regarding changes in planning assumptions;
- C. Evaluating whether projects otherwise exempted from meeting the requirements of this rule (see sections (26) and (27)) should be treated as non-exempt in cases where potential adverse emissions impacts may exist for any reason. This process shall be initiated by the MPO and conducted in accordance with paragraph (5)(B)2. of this rule in the context of the transportation planning and TIP programming processes;
- D. Developing a list of TCMs to be included in the applicable implementation plan. This process shall be initiated by the MPO and conducted in accordance with paragraph (5)(B)2. of this rule in the context of the state air quality implementation plan development process;
- E. Making a determination, as required by paragraph (13)(C)1., whether past obstacles to implementation of TCMs which are behind the schedule established in the applicable implementation plan have been identified and are being overcome, and whether state and local agencies with influence over approvals or funding for TCMs are giving maximum priority to approval or funding for TCMs. This process shall be initiated by the MPO and conducted in accordance with paragraph (5)(B)2. of this rule in the context of the transportation planning and TIP programming processes. This process shall also consider whether delays in TCM implementation necessitate revisions to the applicable implementation plan to remove TCMs or substitute TCMs or other emission reduction measures;
- F. Notification of transportation plan or TIP revisions or amendments which merely add or delete exempt projects listed in section (26) or section (27). This process shall be initiated by the MPO and conducted in accordance with paragraph (5)(B)2. of this rule in the



context of the transportation planning and TIP programming processes. The MPO shall notify all conformity consulting agencies in writing within seven (7) calendar days after taking action to approve such exempt projects. The notification shall include enough information about the exempt projects for the consulting agencies to determine their agreement or disagreement that the projects are exempt under section (26) or section (27) of this rule;

- G. Determining whether the project is included in the regional emissions analysis supporting the current conforming TIP's conformity determination, even if the project is not strictly included in the TIP for purposes of MPO project selection or endorsement, and whether the project's design concept and scope have not changed significantly from those which were included in the regional emissions analysis, or in a manner which would significantly impact use of the facility. This process shall be initiated by the MPO and conducted in accordance with paragraph (5)(B)2. of this rule in the context of the TIP programming process;
- H. Determining what forecast of vehicle miles traveled (VMT) to use in establishing or tracking emissions budgets, developing transportation plans, TIPs, or applicable implementation plans, or making conformity determinations. This process shall be initiated by the MPO and conducted in accordance with paragraph (5)(B)3. of this rule regarding planning assumptions;
- I. Determining the definition of reasonable professional practice for the purposes of section (22). This process shall be initiated by the MPO and conducted in accordance with paragraph (5)(B)3. of this rule regarding planning assumptions;
- J. Determining whether the project sponsor or the MPO has demonstrated that the requirements of section (18) are satisfied without a particular mitigation or control measure, as provided in subsection (25)(D). This process shall be initiated by the MPO and conducted in accordance with paragraph (5)(B)2. of this rule in the context of the transportation planning and TIP programming processes;
- K. Identifying, as required by subsection (23)(B), projects located at sites in PM<sub>10</sub> nonattainment areas which have vehicle and roadway emission and dispersion characteristics which are essentially identical to those at sites which have violations verified by monitoring, and therefore require quantitative PM<sub>10</sub> hot-spot analysis; and
- L. Choosing conformity tests and methodologies for isolated rural nonattainment and maintenance areas, as required by paragraph (9)(L)2.

2. An interagency consultation process in accordance with subsection (5)(B) of this rule involving the MPO, the regional air quality advisory organization, the regional transportation policy advisory committee and the state air quality and transportation agencies for the following:
  - A. Evaluating events which will trigger new conformity determinations in addition to those triggering events established in section (4). This process shall be initiated by the MPO and conducted in accordance with paragraph (5)(B)3. of this rule regarding planning assumptions when there is a significant change in any planning assumption (examples: new regional forecast of population and employment, actual vehicle miles traveled (VMT) estimates significantly different from planning projections, etc.); and
  - B. Consulting on emissions analysis for transportation activities which cross the borders of the MPOs or nonattainment or maintenance area or air basin. This process shall be initiated by the MPO and conducted in accordance with paragraph (5)(B)2. of this rule.
3. Prior to establishing a metropolitan planning area for transportation planning that does not include the entire nonattainment or maintenance area, the interagency consultation process described in subsection (5)(B) of this rule shall be supplemented by a formal memorandum of agreement, incorporated in the applicable state implementation plan, executed by the MPO and the state air quality and transportation agencies for cooperative planning and analysis. This executed memorandum of agreement shall specify procedures for determining conformity of all regionally significant transportation projects outside the metropolitan planning boundary for transportation planning and within the nonattainment or maintenance area.
  - A. The interagency consultation process established by the executed memorandum of agreement for such an area shall apply in addition to all other consultation requirements.
  - B. At a minimum, any memorandum of agreement establishing a state transportation planning area outside of the MPO metropolitan planning area for transportation planning, but within the nonattainment or maintenance area, shall provide for state air quality agency concurrence in conformity determinations for areas outside of the metropolitan planning boundary for transportation planning, but within the nonattainment or maintenance area. Such agreement shall also establish a process involving the MPO and the state transportation agency in cooperative planning and analysis for determining conformity of all projects outside the metropolitan planning area for transportation planning and within the nonattainment or maintenance area in the context of the total regional transportation system that serves the nonattainment or maintenance area.
4. An interagency consultation process shall be undertaken to ensure that plans for construction of regionally significant projects which are not

FHWA/FTA projects (including projects for which alternative locations, design concept and scope, or the no-build option are still being considered), including those by recipients of funds designated under Title 23 U.S.C. or Title 49 U.S.C., are disclosed to the MPO on a regular basis, and to ensure that any changes to those plans are immediately disclosed. This process shall be initiated by the MPO and conducted in accordance with paragraph (5)(B)2. of this rule in the context of the transportation planning and TIP programming processes. At a minimum, the disclosure procedures shall meet the requirements of subparagraph (5)(B)4.A.–C. of this rule.

- A. The sponsor of any such regionally significant project, and any agency that becomes aware of any such project through applications for approval, permitting or funding shall disclose such project to the MPO in a timely manner. Such disclosure shall be made not later than the first occasion when any of the following actions is sought: any policy board action necessary for the project to proceed, the issuance of administrative permits for the facility or for construction of the facility, the execution of a contract to design or construct the facility, the execution of any indebtedness for the facility, any final action of a board, commission or administrator authorizing or directing employees to proceed with design, permitting or construction of the project, or the execution of any contract to design or construct or any approval needed for any facility that is dependent on the completion of a regionally significant project. The sponsor of any potential regionally significant project shall disclose to the MPO each project for which alternatives have been identified through the NEPA process, and, in particular, any preferred alternative that may be a regionally significant project. This information shall be provided to the MPO in accordance with the time sequence and procedures established under paragraph (5)(B)2. of this rule for each transportation planning and TIP development process.
- B. In the case of any such regionally significant project that has not been disclosed to the MPO and other agencies participating in the consultation process before action is taken to adopt or approve, such regionally significant project shall be deemed not to be included in the regional emissions analysis supporting the currently conforming TIP's conformity determination and not to be consistent with the motor vehicle emissions budget in the applicable implementation plan, for the purposes of section (21).
- C. For the purposes of paragraph (5)(C)4. of this rule, the phrase adopt or approve of a regionally significant project means the first time any action necessary to authorizing a project occurs, such as any policy board action necessary for the project to proceed, the issuance of administrative permits for the facility or for construction

of the facility, the execution of a contract to construct the facility, any final action of a board, commission or administrator authorizing or directing employees to proceed with construction of the project, or any written decision or authorization from the MPO that the project may be adopted or approved.

5. This interagency consultation process shall be undertaken in accordance with subsection (5)(B) of this rule involving the MPO and other recipients of funds designated under Title 23 U.S.C. or Title 49 U.S.C. for assuming the location and design concept and scope of projects which are disclosed to the MPO as required by paragraph (5)(C)4. of this rule but whose sponsors have not yet decided these features in sufficient detail to perform the regional emissions analysis according to the requirements of section (22). This process shall be initiated by the MPO and conducted in accordance with paragraph (5)(B)3. of this rule as it relates to planning assumptions.
  6. This interagency consultation process outlined in subsection (5)(B) of this rule involves the MPO, the regional transportation policy advisory committee, the regional air quality advisory organization, and the state transportation and air quality agencies shall be undertaken for the design, schedule, and funding of research and data collection efforts and regional transportation model development by the MPO (e.g., household/travel transportation surveys). This process shall be initiated by the MPO and conducted in accordance with paragraph (5)(B)3. of this rule as it relates to planning assumptions.
  7. This process insures providing final documents (including applicable implementation plans and implementation plan revisions) and supporting information to each agency after approval or adoption. This process is applicable to all agencies described in paragraph (A)1. of this section, including federal agencies.
- (D) Resolving Conflicts.
1. Any conflict among state agencies or between state agencies and the MPO regarding a final action on any conformity determination by the MPO on a plan or program subject to these consultation requirements shall be escalated to the governor(s), if the conflict cannot be resolved by the heads of the involved agencies. Such agencies shall make every effort to resolve any differences, including personal meetings between the heads of such agencies or their policy-level representatives, to the extent possible.
  2. After the MPO has notified the state air quality agencies in writing of the disposition of all air quality agency comments on a proposed conformity determination, state air quality agencies shall have fourteen (14) calendar days from the date that the written notification is received to appeal such proposed determination of conformity to the governor of Missouri. If the Missouri air quality agency appeals to the governor of Missouri, the final conformity determination will automatically become contingent upon concurrence of the governor of Missouri. If the Kansas air quality agency

presents an appeal to the governor of Missouri regarding a conflict involving both Kansas and Missouri agencies or the MPO, the final conformity determination will automatically become contingent upon concurrence of both the governor of Missouri and the governor of Kansas. The Missouri air quality agency shall provide notice of any appeal under this subsection to the MPO, and the state transportation agencies, and the Kansas air quality agency. If neither state air quality agency appeals to the governor(s) within fourteen (14) days of receiving written notification, the MPO may proceed with the final conformity determination.

3. The governor of Missouri may delegate the role of hearing any such appeal under this subsection and of deciding whether to concur in the conformity determination to another official or agency within the state, but not to the head or staff of the Missouri air quality agency, the Missouri Air Conservation Commission or any local air quality agency, the Missouri transportation agency or the Missouri Highway Commission, or any agency that has responsibility for one (1) of these functions, or the MPO.

- (E) Public Consultation Procedures. Affected agencies making conformity determinations on transportation plans, programs, and projects shall establish a proactive public involvement process. This process will provide opportunity for public review and comment prior to taking formal action on a conformity determination for all transportation plans and TIPs, consistent with the requirements of 23 CFR part 450 including part 450.316(b)(1), 450.322(c), and 450.324(c) as in effect on the date of adoption of this rule. The public shall be assured reasonable access to technical and policy information considered by the agency at the beginning of the public comment period and prior to taking formal action on a conformity determination for all transportation plans and TIPs, consistent with these requirements and those of 23 CFR 450.316(b). In addition, these agencies must specifically respond in writing to all public comments stating that known plans for a regionally significant project which is not receiving FHWA or FTA funding or approval have not been properly reflected in the emissions analysis supporting a proposed conformity finding for a transportation plan or TIP. These agencies shall also provide opportunity for public involvement in conformity determinations for projects where otherwise required by law (for example, NEPA). The opportunity for public involvement provided under this subsection shall include access to information, emissions data, analyses and modeling assumptions used to perform a conformity determination, in accordance with the provisions of paragraph (5)(B)4. of this rule, and the obligation of any such agency to consider and respond to significant comments. No transportation plan, TIP or project may be found to conform unless the determination of conformity has been subject to a public involvement process in accordance with this subsection, without regard to whether the DOT has certified any process under 23 CFR part 450. Any charges imposed for public inspection and copying should be consistent with the fee schedule contained in 49 CFR 7.43.

- (6) Content of Transportation Plans.

(A) Transportation Plans Adopted after January 1, 1997, in Serious, Severe, or Extreme Ozone Nonattainment Areas. If the metropolitan planning area contains an urbanized area population greater than two hundred thousand (>200,000), the transportation plan must specifically describe the transportation system envisioned for certain future years which shall be called horizon years.

1. The agency or organization developing the transportation plan, after consultation in accordance with section (5), may choose any years to be horizon years, subject to the following restrictions:
  - A. Horizon years may be no more than ten (10) years apart;
  - B. The first horizon year may be no more than ten (10) years from the base year used to validate the transportation demand planning model;
  - C. If the attainment year is in the time span of the transportation plan, the attainment year must be a horizon year; and
  - D. The last horizon year must be the last year of the transportation plan's forecast period.

2. For these horizon years—

- A. The transportation plan shall quantify and document the demographic and employment factors influencing expected transportation demand, including land use forecasts, in accordance with implementation plan provisions and the consultation requirements specified by section (5);
- B. The highway and transit system shall be described in terms of the regionally significant additions or modifications to the existing transportation network which the transportation plan envisions to be operational in the horizon years. Additions and modifications to the highway network shall be sufficiently identified to indicate intersections with existing regionally significant facilities, and to determine their effect on route options between transportation analysis zones. Each added or modified highway segment shall also be sufficiently identified in terms of its design concept and design scope to allow modeling of travel times under various traffic volumes, consistent with the modeling methods for area-wide transportation analysis in use by the MPO. Transit facilities, equipment, and services envisioned for the future shall be identified in terms of design concept, design scope, and operating policies that are sufficient for modeling of their transit ridership. Additions and modifications to the transportation network shall be described sufficiently to show that there is a reasonable relationship between expected land use and the envisioned transportation system; and
- C. Other future transportation policies, requirements, services, and activities, including intermodal activities, shall be described.

(B) Two-year grace period for transportation plan requirements in certain ozone and CO areas. The requirements of subsection (a) of this section apply to such areas

or portions of such areas that have previously not been required to meet these requirements for any existing NAAQS two (2) years from the following:

1. The effective date of EPA's reclassification of an ozone or CO nonattainment area that has an urbanized area population greater than two hundred thousand (>200,000) to serious or above;
2. The official notice by the Census Bureau that determines the urbanized area population of a serious or above or CO nonattainment area to be greater than two hundred thousand (>200,000); or,
3. The effective date of EPA's action that classifies a newly designated ozone or CO nonattainment area that has an urbanized area population greater than two hundred thousand (>200,000) as serious or above.

(C) Transportation Plans for Other Areas. Transportation plans for other areas must meet the requirements of subsection (6)(A) of this rule at least to the extent it has been the previous practice of the MPO to prepare plans which meet those requirements. Otherwise, transportation plans must describe the transportation system envisioned for the future and must be sufficiently described within the transportation plans so that a conformity determination can be made according to the criteria and procedures of sections (9)–(19).

(D) Savings. The requirements of this section supplement other requirements of applicable law or regulation governing the format or content of transportation plans.

(7) Relationship of Transportation Plan and TIP Conformity with the NEPA Process. The degree of specificity required in the transportation plan and the specific travel network assumed for air quality modeling do not preclude the consideration of alternatives in the NEPA process or other project development studies. Should the NEPA process result in a project with design concept and scope significantly different from that in the transportation plan or TIP, the project must meet the criteria in sections (9)–(19) for projects not from a TIP before NEPA process completion.

(8) Fiscal Constraints for Transportation Plans and TIPs. Transportation plans and TIPs must be fiscally constrained consistent with DOT's metropolitan planning regulations at 23 CFR part 450 as in effect on the date of adoption of this rule in order to be found in conformity. The determination that a transportation plan or TIP is fiscally constrained shall be subject to consultation in accordance with section (5) of this rule.

(9) Criteria and Procedures for Determining Conformity of Transportation Plans, Programs, and Projects—General.

(A) In order for each transportation plan, program, and FHWA/FTA project to be found to conform, the MPO and DOT must demonstrate that the applicable criteria and procedures in sections (10)–(19) as listed in Table 1 in subsection (9)(B) of this rule are satisfied, and the MPO and DOT must comply with all applicable conformity requirements of implementation plans and this rule and of court orders for the area which pertain specifically to conformity. The criteria for making conformity determinations differ based on the action under review

(transportation plans, TIPs, and FHWA/FTA projects), the relevant pollutant(s), and the status of the implementation plan.

- (B) Table 1 in this section indicates the criteria and procedures in sections (10)–(19) which apply for transportation plans, TIPs, and FHWA/FTA projects. Subsections (C) through (I) of this section explain when the budget, interim emissions, and hot-spot tests are required for each pollutant and NAAQS. Subsection (J) of this section addresses conformity requirements for areas with approved or adequate limited maintenance plans. Subsection (K) of this section addresses nonattainment and maintenance areas which EPA has determined have insignificant motor vehicle emissions. Subsection (L) of this section addresses isolated rural nonattainment and maintenance areas. Subsection (D) of this section explains when budget and emission reduction tests are required for CO nonattainment and maintenance areas. Table 1 follows:

**Table 1. Conformity Criteria**

**All Actions at All Times—**

Section (10)	Latest planning assumptions
Section (11)	Latest emissions model
Section (12)	Consultation

**Transportation Plan—**

Subsection (13)(B)	TCMs
Section (18) and/or Section (19)	Emissions budget and/or interim emissions

**TIP—**

Subsection (13)(C)	TCMs
Section (18) and/or Section (19)	Emissions budget and/or interim emissions

**Project (From a Conforming Plan and TIP)—**

Section (14)	Currently conforming plan and TIP
Section (15)	Project from a conforming plan and TIP
Section (16)	CO and PM10 hot spots
Section (17)	PM10 and PM2.5 control measures

**Project (Not From a Conforming Plan and TIP)—**

Subsection (13)(D)	TCMs
Section (14)	Currently conforming plan and TIP



Section (16)	CO and PM10 hot spots
Section (17)	PM10 and PM2.5 Control Measures
Section (18) and/or Section (19)	Emissions budget and/or interim emissions

- (C) One (1)-hour Ozone NAAQS Nonattainment and Maintenance Areas. This subsection applies when an area is nonattainment or maintenance for the one (1)-hour ozone NAAQS (i.e., until the effective date of any revocation of the one (1)-hour ozone NAAQS for an area). In addition to the criteria listed in Table 1 in subsection (B) of this section that are required to be satisfied at all times, in ozone nonattainment and maintenance areas conformity determinations must include a demonstration that the budget and/or interim emissions tests are satisfied as described in the following:
1. In all one (1)-hour ozone nonattainment and maintenance areas the budget test must be satisfied as required by section (18) for conformity determinations made on or after—
    - A. The effective date of EPA’s finding that a motor vehicle emissions budget in a submitted control strategy implementation plan revision or maintenance plan for the one (1)-hour ozone NAAQS is adequate for transportation conformity purposes;
    - B. The publication date of EPA’s approval of such a budget in the *Federal Register*; or
    - C. The effective date of EPA’s approval of such a budget in the *Federal Register*, if such approval is completed through direct final rulemaking;
  2. In ozone nonattainment areas that are required to submit a control strategy implementation plan revision for the one (1)-hour ozone NAAQS (usually moderate and above areas), the interim emissions tests must be satisfied as required by section (19) for conformity determinations made when there is no approved motor vehicle emissions budget from an applicable implementation plan for the one (1)-hour ozone NAAQS and no adequate motor vehicle emissions budget from a submitted control strategy implementation plan revision or maintenance plan for the one (1)-hour ozone NAAQS;
  3. An ozone nonattainment area must satisfy the interim emissions test for NO<sub>x</sub>, as required by section (19), if the implementation plan or plan submission that is applicable for the purposes of conformity determinations is a fifteen percent (15%) plan or Phase I attainment demonstration that does not include a motor vehicle emissions budget for NO<sub>x</sub>. The implementation plan for the one (1)-hour ozone NAAQS will be considered to establish a motor vehicle emissions budget for NO<sub>x</sub> if the implementation plan or plan submission contains an explicit NO<sub>x</sub> motor vehicle emissions budget that is intended to act as a ceiling on future NO<sub>x</sub>

- emissions, and the NO<sub>x</sub> motor vehicle emissions budget is a net reduction from NO<sub>x</sub> emissions levels in 1990;
4. Ozone nonattainment areas that have not submitted a maintenance plan and that are not required to submit a control strategy implementation plan revision for the one (1)-hour ozone NAAQS (usually marginal and below areas) must satisfy one (1) of the following requirements—
    - A. The interim emissions tests required by section (19); or
    - B. The state shall submit to EPA an implementation plan revision for the one (1)-hour NAAQS that contains motor vehicle emissions budget(s) and a reasonable further progress or attainment demonstration, and the budget test required by section (18) must be satisfied using the adequate or approved motor vehicle emissions budget(s) (as described in paragraph (C)1. of this section); and
  5. Notwithstanding paragraphs (C)1. and (C)2. of this section, moderate and above ozone nonattainment areas with three (3) years of clean data for the one (1)-hour ozone NAAQS that have not submitted a maintenance plan and that EPA has determined are not subject to the Clean Air Act reasonable further progress and attainment demonstration requirements for the one (1)-hour ozone NAAQS must satisfy one (1) of the following requirements—
    - A. The interim emissions tests as required by section (19);
    - B. The budget test as required by section (18), using the adequate or approved motor vehicle emissions budgets in the submitted or applicable control strategy implementation plan for the one (1)-hour ozone NAAQS (subject to the timing requirements of paragraph (C)1. of this section); or
    - C. The budget test as required by section (18), using the motor vehicle emissions of ozone precursors in the most recent year of clean data as motor vehicle emissions budgets, if such budgets are established by the EPA rulemaking that determines that the area has clean data for the one (1)-hour ozone NAAQS.
- (D) Eight (8)-hour ozone NAAQS nonattainment and maintenance areas without motor vehicle emissions budgets for the one (1)-hour ozone NAAQS for any portion of the eight (8)-hour nonattainment area. This subsection applies to areas that were never designated nonattainment for the one (1)-hour ozone NAAQS and areas that were designated nonattainment for the one (1)-hour ozone NAAQS but that never submitted a control strategy SIP or maintenance plan with approved or adequate motor vehicle emissions budgets. This subsection applies one (1) year after the effective date of EPA's nonattainment designation for the eight (8)-hour ozone NAAQS for an area, according to subsection (2)(D). In addition to the criteria listed in Table 1 in subsection (B) of this section that are required to be satisfied at all times, in such eight (8)-hour ozone nonattainment and maintenance areas conformity determinations must include a demonstration that the budget and/or interim emissions tests are satisfied as described in the following:

1. In such eight (8)-hour ozone nonattainment and maintenance areas the budget test must be satisfied as required by section (18) for conformity determinations made on or after—
  - A. The effective date of EPA's finding that a motor vehicle emissions budget in a submitted control strategy implementation plan revision or maintenance plan for the eight (8)-hour ozone NAAQS is adequate for transportation conformity purposes;
  - B. The publication date of EPA's approval of such a budget in the *Federal Register*; or
  - C. The effective date of EPA's approval of such a budget in the *Federal Register*, if such approval is completed through direct final rulemaking.
2. In ozone nonattainment areas that are required to submit a control strategy implementation plan revision for the eight (8)-hour ozone NAAQS (usually moderate and above and certain Clean Air Act, part D, subpart 1 areas), the interim emissions tests must be satisfied as required by section (19) for conformity determinations made when there is no approved motor vehicle emissions budget from an applicable implementation plan for the eight (8)-hour ozone NAAQS and no adequate motor vehicle emissions budget from a submitted control strategy implementation plan revision or maintenance plan for the eight (8)-hour ozone NAAQS.
3. Such an eight (8)-hour ozone nonattainment area must satisfy the interim emissions test for NO<sub>x</sub>, as required by section (19), if the implementation plan or plan submission that is applicable for the purposes of conformity determinations is a fifteen percent (15%) plan or other control strategy SIP that addresses reasonable further progress that does not include a motor vehicle emissions budget for NO<sub>x</sub>. The implementation plan for the eight (8)-hour ozone NAAQS will be considered to establish a motor vehicle emissions budget for NO<sub>x</sub> if the implementation plan submission contains an explicit NO<sub>x</sub> motor vehicle emissions budget that is intended to act as a ceiling on future NO<sub>x</sub> emissions, and the NO<sub>x</sub> motor vehicle emissions budget is a net reduction from NO<sub>x</sub> emissions levels in 2002.
4. Ozone nonattainment areas that have not submitted a maintenance plan and that are not required to submit a control strategy implementation plan revision for the eight (8)-hour ozone NAAQS (usually marginal and certain Clean Air Act, part D, subpart 1 areas) must satisfy one (1) of the following requirements—
  - A. The interim emissions tests required by section (19); or
  - B. The State shall submit to EPA an implementation plan revision for the eight (8)-hour ozone NAAQS that contains motor vehicle emissions budget(s) and a reasonable further progress or attainment demonstration, and the budget test required by section (18) must be satisfied using the adequate or approved motor vehicle emissions budget(s) (as described in paragraph (D)1. of this section).

5. Notwithstanding paragraphs (D)1. and (D)2. of this section, ozone nonattainment areas with three (3) years of clean data for the eight (8)-hour ozone NAAQS that have not submitted a maintenance plan and that EPA has determined are not subject to the Clean Air Act reasonable further progress and attainment demonstration requirements for the eight (8)-hour ozone NAAQS must satisfy one (1) of the following requirements—
    - A. The interim emissions tests as required by section (19);
    - B. The budget test as required by section (18), using the adequate or approved motor vehicle emissions budgets in the submitted or applicable control strategy implementation plan for the eight (8)-hour ozone NAAQS (subject to the timing requirements of paragraph (D)1. of this section); or
    - C. The budget test as required by section (18), using the motor vehicle emissions of ozone precursors in the most recent year of clean data as motor vehicle emissions, if such budgets are established by the EPA rulemaking that determines that the area has clean data for the eight (8)-hour ozone NAAQS.
- (E) Eight (8)-hour ozone NAAQS nonattainment and maintenance areas with motor vehicle emissions budgets for the one (1)-hour ozone NAAQS that cover all or a portion of the eight (8)-hour nonattainment area. This provision applies one (1) year after the effective date of EPA's nonattainment designation for the eight (8)-hour ozone NAAQS for an area, according to subsection (2)(D). In addition to the criteria listed in Table 1 in subsection (B) of this section that are required to be satisfied at all times, in such eight (8)-hour ozone nonattainment and maintenance areas conformity determinations must include a demonstration that the budget and/or interim emissions tests are satisfied as described in the following:
1. In such eight (8)-hour ozone nonattainment and maintenance areas the budget test must be satisfied as required by section (18) for conformity determinations made on or after—
    - A. The effective date of EPA's finding that a motor vehicle emissions budget in a submitted control strategy implementation plan revision or maintenance plan for the eight (8)-hour ozone NAAQS is adequate for transportation conformity purposes;
    - B. The publication date of EPA's approval of such budget in the *Federal Register*; or
    - C. The effective date of EPA's approval of such a budget in the *Federal Register*, if such approval is completed through direct final rulemaking.
  2. Prior to paragraph (E)1. of this section applying, the following test(s) must be satisfied, subject to the exception in subparagraph (E)2.E.—
    - A. If the eight (8)-hour ozone nonattainment area covers the same geographic area as the one (1)-hour ozone nonattainment or maintenance area(s), the budget test as required by section (18)

using the approved or adequate motor vehicle emissions budgets in the one (1)-hour ozone applicable implementation plan or implementation plan submission;

B. If the eight (8)-hour ozone nonattainment area covers a smaller geographic area within the one (1)-hour ozone nonattainment or maintenance area(s), the budget test as required by section (18) for either—

(I) The eight (8)-hour nonattainment area using corresponding portion(s) of the approved or adequate motor vehicle emissions budgets in the one (1)-hour ozone applicable implementation plan or implementation plan submission where such portion(s) can reasonably be identified through the interagency consultation process required by section (5); or

(II) The one (1)-hour nonattainment area using the approved or adequate motor vehicle emissions budgets in the one (1)-hour ozone applicable implementation plan or implementation plan submission. If additional emissions reductions are necessary to meet the budget test for the eight (8)-hour ozone NAAQS in such cases, these emissions reductions must come from within the eight (8)-hour nonattainment area;

C. If the eight (8)-hour ozone nonattainment area covers a larger geographic area and encompasses the entire (1)-hour ozone nonattainment or maintenance area(s)—

(I) The budget test as required by section (18) for the portion of the eight (8)-hour ozone nonattainment area covered by the approved or adequate motor vehicle emissions budgets in the one (1)-hour ozone applicable implementation plan or implementation plan submission; and

(II) The interim emissions tests as required by section (19) for either—the portion of the eight (8)-hour ozone nonattainment area not covered by the approved or adequate budgets in the one (1)-hour ozone implementation plan, the entire eight (8)-hour ozone nonattainment area, or the entire portion of the eight (8)-hour ozone nonattainment area within an individual state, in the case where separate one (1)-hour SIP budgets are established for each state of a multi-state one (1)-hour nonattainment or maintenance area;

D. If the eight (8)-hour ozone nonattainment area partially covers a one (1)-hour ozone nonattainment or maintenance area(s)—

(I) The budget test as required by section (18) for the portion of the eight (8)-hour ozone nonattainment area covered by the corresponding portion of the approved or adequate

- motor vehicle emissions budgets in the one (1)-hour ozone applicable implementation plan or implementation plan submission where they can be reasonably identified through the interagency consultation process required by section (5); and
- (II) The interim emissions tests as required by section (19), when applicable, for either—the portion of the eight (8)-hour ozone nonattainment area not covered by the approved or adequate budgets in the one (1)-hour ozone implementation plan, the entire eight (8)-hour ozone nonattainment area, or the entire portion of the eight (8)-hour ozone nonattainment area within an individual state, in the case where separate one (1)-hour SIP budgets are established for each state in a multi-state one (1)-hour nonattainment or maintenance area.
- E. Notwithstanding subparagraphs (E)2.A., B., C., or D. of this section, the interim emissions tests as required by section (19), where the budget test using the approved or adequate motor vehicle emissions budgets in the one (1)-hour ozone applicable implementation plan(s) or implementation plan submission(s) for the relevant area or portion thereof is not the appropriate test and the interim emissions tests are more appropriate to ensure that the transportation plan, TIP, or project not from a conforming plan and TIP will not create new violations, worsen existing violations, or delay timely attainment of the eight (8)-hour ozone standard, as determined through the interagency consultation process required by section (5).
3. Such an eight (8)-hour ozone nonattainment area must satisfy the interim emissions test for NO<sub>x</sub>, as required by section (19), if the only implementation plan or plan submission that is applicable for the purposes of conformity determinations is a fifteen percent (15%) plan or other control strategy SIP that addresses reasonable further progress that does not include a motor vehicle emissions budget for NO<sub>x</sub>. The implementation plan for the eight (8)-hour ozone NAAQS will be considered to establish a motor vehicle emissions budget for NO<sub>x</sub> if the implementation plan or plan submission contains an explicit NO<sub>x</sub> motor vehicle emissions budget that is intended to act as a ceiling on future NO<sub>x</sub> emissions, and the NO<sub>x</sub> motor vehicle emissions budget is a net reduction from NO<sub>x</sub> emissions levels in 2002. Prior to an adequate or approved NO<sub>x</sub> motor vehicle emissions budget in the implementation plan submission for the eight (8)-hour ozone NAAQS, the implementation plan for the one (1)-hour ozone NAAQS will be considered to establish a motor vehicle emissions budget for NO<sub>x</sub> if the implementation plan contains an explicit NO<sub>x</sub> motor vehicle emissions budget that is intended to act as a ceiling on

future NO<sub>x</sub> emissions, and the NO<sub>x</sub> motor vehicle emissions budget is a net reduction from NO<sub>x</sub> emissions levels in 1990.

4. Notwithstanding paragraphs (E)1. and (E)2. of this section, ozone nonattainment areas with three (3) years of clean data for the eight (8)-hour ozone NAAQS that have not submitted a maintenance plan and that EPA has determined are not subject to the Clean Air Act reasonable further progress and attainment demonstration requirements for the eight (8)-hour ozone NAAQS must satisfy one (1) of the following requirements—

- A. The budget test and/or interim emissions tests as required by sections (18) and (19) and as described in paragraph (E)2. of this section;
- B. The budget test as required by section (18), using the adequate or approved motor vehicle emissions budgets in the submitted or applicable control strategy implementation plan for the eight (8)-hour ozone NAAQS (subject to the timing requirements of paragraph (E)1. of this section); or
- C. The budget test as required by section (18), using the motor vehicle emissions of ozone precursors in the most recent year of clean data as motor vehicle emissions budgets, if such budgets are established by the EPA rulemaking that determines that the area has clean data for the eight (8)-hour ozone NAAQS.

- (F) CO nonattainment and maintenance areas. In addition to the criteria listed in Table 1 in subsection (B) of this section that are required to be satisfied at all times, in CO nonattainment and maintenance areas conformity determinations must include a demonstration that the hot spot, budget and/or interim emissions tests are satisfied as described in the following:

1. FHWA/FTA projects in CO nonattainment or maintenance areas must satisfy the hot spot test required by section (16) at all times. Until a CO attainment demonstration or maintenance plan is approved by EPA, FHWA/FTA projects must also satisfy the hot-spot test required by subsection (16)(B).
2. In CO nonattainment and maintenance areas the budget test must be satisfied as required by section (18) for conformity determinations made on or after—
  - A. The effective date of EPA's finding that a motor vehicle emissions budget in a submitted control strategy implementation plan revision or maintenance plan is adequate for transportation conformity purposes;
  - B. The publication date of EPA's approval of such a budget in the *Federal Register*; or
  - C. The effective date of EPA's approval of such a budget in the *Federal Register*, if such approval is completed through direct final rulemaking.

3. Except as provided in paragraph (F)4. of this section, in CO nonattainment areas the interim emissions tests must be satisfied as required by section (19) for conformity determinations made when there is no approved motor vehicle emissions budget from an applicable implementation plan and no adequate motor vehicle emissions budget from a submitted control strategy implementation plan revision or maintenance plan.
  4. CO nonattainment areas that have not submitted a maintenance plan and that are not required to submit an attainment demonstration (e.g., moderate CO areas with a design value of 12.7 ppm or less or not classified CO areas) must satisfy one (1) of the following requirements:
    - A. The interim emissions tests required by section (19); or
    - B. The state shall submit to EPA an implementation plan revision that contains motor vehicle emissions budget(s) and an attainment demonstration, and the budget test required by section (18) must be satisfied using the adequate or approved motor vehicle emissions budget(s) (as described in paragraph (F)2. of this section).
- (G) PM<sub>10</sub> nonattainment and maintenance areas. In addition to the criteria listed in Table 1 of subsection (B) of this section that are required to be satisfied at all times, in PM<sub>10</sub> nonattainment and maintenance areas conformity determinations must include a demonstration that the hot-spot, budget and/or interim emissions tests are satisfied as described in the following:
1. FHWA/FTA projects in PM<sub>10</sub> nonattainment or maintenance areas must satisfy the hot-spot test required by subsection (16)(A).
  2. In PM<sub>10</sub> nonattainment and maintenance areas the budget test must be satisfied as required by section (18) for conformity determinations made on or after—
    - A. The effective date of EPA's finding that a motor vehicle emissions budget in a submitted control strategy implementation plan revision or maintenance plan is adequate for transportation conformity purposes;
    - B. The publication date of EPA's approval of such a budget in the *Federal Register*; or
    - C. The effective date of EPA's approval of such a budget in the *Federal Register*, if such approval is completed through direct final rulemaking.
  3. In PM<sub>10</sub> nonattainment areas the interim emissions tests must be satisfied as required by section (19) for conformity determinations made—
    - A. If there is no approved motor vehicle emissions budget from an applicable implementation plan and no adequate motor vehicle emissions budget from a submitted control strategy implementation plan revision or maintenance plan; or
    - B. If the submitted implementation plan revision is a demonstration of impracticability under CAA section 189(a)(1)(B)(ii) and does not demonstrate attainment.



- (H) NO<sub>2</sub> nonattainment and maintenance areas. In addition to the criteria listed in Table 1 in subsection (B) of this section that are required to be satisfied at all times, in NO<sub>2</sub> nonattainment and maintenance areas conformity determinations must include a demonstration that the budget and/or interim emissions tests are satisfied as described in the following:
1. In NO<sub>2</sub> nonattainment and maintenance areas the budget test must be satisfied as required by section (18) for conformity determinations made on or after—
    - A. The effective date of EPA's finding that a motor vehicle emissions budget in a submitted control strategy implementation plan revision or maintenance plan is adequate for transportation conformity purposes;
    - B. The publication date of EPA's approval of such a budget in the *Federal Register*; or
    - C. The effective date of EPA's approval of such a budget in the *Federal Register*, if such approval is completed through direct final rulemaking.
  2. In NO<sub>2</sub> nonattainment areas the interim emissions tests must be satisfied as required by section (19) for conformity determinations made when there is no approved motor vehicle emissions budget from an applicable implementation plan and no adequate motor vehicle emissions budget from a submitted control strategy implementation plan revision or maintenance plan.
- (I) PM<sub>2.5</sub> nonattainment and maintenance areas. In addition to the criteria listed in Table 1 in subsection (B) of this section that are required to be satisfied at all times, in PM<sub>2.5</sub> nonattainment and maintenance areas conformity determinations must include a demonstration that the budget and/or interim emissions tests are satisfied as described in the following:
1. In PM<sub>2.5</sub> nonattainment and maintenance areas the budget test must be satisfied as required by section (18) for conformity determinations made on or after—
    - A. The effective date of EPA's finding that a motor vehicle emissions budget in a submitted control strategy implementation plan revision or maintenance plan is adequate for transportation conformity purposes;
    - B. The publication date of EPA's approval of such a budget in the *Federal Register*; or
    - C. The effective date of EPA's approval of such a budget in the *Federal Register*, if such approval is completed through direct final rulemaking.
  2. In PM<sub>2.5</sub> nonattainment areas the interim emissions tests must be satisfied as required by section (19) for conformity determinations made if there is no approved motor vehicle emissions budget from an applicable implementation plan and no adequate motor vehicle emissions budget

from a submitted control strategy implementation plan revision or maintenance plan.

- (J) Areas with limited maintenance plans. Notwithstanding the other subsections of this section, an area is not required to satisfy the regional emissions analysis for section (18) and/or section (19) for a given pollutant and NAAQS, if the area has an adequate or approved limited maintenance plan for such pollutant and NAAQS. A limited maintenance plan would have to demonstrate that it would be unreasonable to expect that such an area would experience enough motor vehicle emissions growth for a NAAQS violation to occur. A conformity determination that meets other applicable criteria in Table 1 of subsection (B) of this section is still required, including the hot-spot requirements for projects in CO and PM<sub>10</sub> areas.
- (K) Areas with insignificant motor vehicle emissions. Notwithstanding the other subsections of this section, an area is not required to satisfy a regional emissions analysis for section (18) and/or section (19) for a given pollutant/precursor and NAAQS, if EPA finds through the adequacy or approval process that a SIP demonstrates that regional motor vehicle emissions are an insignificant contributor to the air quality problem for that pollutant/precursor and NAAQS. The SIP would have to demonstrate that it would be unreasonable to expect that such an area would experience enough motor vehicle emissions growth in that pollutant/precursor for a NAAQS violation to occur. Such a finding would be based on a number of factors, including the percentage of motor vehicle emissions in the context of the total SIP inventory, the current state of air quality as determined by monitoring data for that NAAQS, the absence of SIP motor vehicle control measures, and historical trends and future projections of the growth of motor vehicle emissions. A conformity determination that meets other applicable criteria in Table 1 of subsection (B) of this section is still required, including regional emissions analyses for section (18) and/or section (19) for other pollutants/precursors and NAAQS that apply. Hot-spot requirements for projects in CO and PM<sub>10</sub> areas in section (16) must also be satisfied, unless EPA determines that the SIP also demonstrates that projects will not create new localized violations and/or increase the severity or number of existing violations of such NAAQS. If EPA subsequently finds that motor vehicle emissions of a given pollutant/precursor are significant, this subsection would no longer apply for future conformity determinations for that pollutant/precursor and NAAQS.
- (L) Isolated rural nonattainment and maintenance areas. This subsection applies to any nonattainment or maintenance area (or portion thereof) which does not have a metropolitan transportation plan or TIP and whose projects are not part of the emissions analysis of any MPO's metropolitan transportation plan or TIP. This subsection does not apply to "donut" areas which are outside the metropolitan planning boundary and inside the nonattainment/maintenance area boundary.
  - 1. FHWA/FTA projects in all isolated rural nonattainment and maintenance areas must satisfy the requirements of sections (10), (11), (12), (16), and (17) and subsection (13)(D). Until EPA approves the control strategy implementation plan or maintenance plan for a rural CO nonattainment or

maintenance area, FHWA/FTA projects must also satisfy the requirements of subsection (16)(B) (“Localized CO and PM<sub>10</sub> violations (hot spots)”).

2. Isolated rural nonattainment and maintenance areas are subject to the budget and/or interim emissions tests as described in subsections (C) through (K) of this section, with the following modifications—
  - A. When the requirements of sections (18) and (19) apply to isolated rural nonattainment and maintenance areas, references to “transportation plan” or “TIP” should be taken to mean those projects in the statewide transportation plan or statewide TIP which are in the rural nonattainment or maintenance area.
  - B. In isolated rural nonattainment and maintenance areas that are subject to section (18), FHWA/FTA projects must be consistent with motor vehicle emissions budget(s) for the years in the time frame of the attainment demonstration or maintenance plan. For years after the attainment year (if a maintenance plan has not been submitted) or after the last year of the maintenance plan, FHWA/FTA projects must satisfy one (1) of the following requirements—
    - (I) Section (18);
    - (II) Section (19) (including regional emissions analysis for NO<sub>x</sub> in all ozone nonattainment and maintenance areas, notwithstanding paragraph (19)(F)2.; or
    - (III) As demonstrated by the air quality dispersion model or other air quality modeling technique used in the attainment demonstration or maintenance plan, the FHWA/FTA project, in combination with all other regionally significant projects expected in the area in the time frame of the statewide transportation plan, must not cause or contribute to any new violation of any standard in any areas; increase the frequency or severity of any existing violation of any standard in any area; or delay timely attainment of any standard or any required interim emission reductions or other milestones in any area. Control measures assumed in the analysis must be enforceable.
  - C. The choice of requirements in subparagraph (L)2.B. of this section and the methodology used to meet the requirements of part (L)2.B.III. of this section must be determined through the interagency consultation process required in subparagraph (5)(C)1.G. through which the relevant recipients of Title 23 U.S.C. or Federal Transit Laws funds, the local air quality agency, the state air quality agency, and the state department of transportation should reach consensus about the option and methodology selected. EPA and DOT must be consulted through this process as well. In the event of unresolved disputes, conflicts may be escalated to the governor consistent with the procedure in subsection (5)(D), which

applies for any state air agency comments on a conformity determination.

(10) Criteria and Procedures—Latest Planning Assumptions.

- (A) Except as provided in this paragraph, the conformity determination, with respect to all other applicable criteria in sections (11)—(19), must be based upon the most recent planning assumptions in force at the time the conformity analysis begins. The conformity determination must satisfy the requirements of subsections (10)(B)—(F) of this rule using the planning assumptions available at the time the conformity analysis begins as determined through the interagency consultation process required in section (5). The “time the conformity analysis begins” for a transportation plan or TIP determination is the point at which the MPO or other designated agency begins to model the impact of the proposed transportation plan or TIP on travel and/or emissions. New data that becomes available after an analysis begins is required to be used in the conformity determination only if a significant delay in the analysis has occurred, as determined through interagency consultation.
- (B) Assumptions must be derived from the estimates of current and future population, employment, travel, and congestion most recently developed by the MPO or other agency authorized to make such estimates and approved by the MPO. The conformity determination must also be based on the latest assumptions about current and future background concentrations. Any revisions to these estimates used as part of the conformity determination, including projected shifts in geographic location or level of population, employment, travel, and congestion, must be approved by the MPO, and shall be subject to consultation in accordance with section (5).
- (C) The conformity determination for each transportation plan and TIP must discuss how transit operating policies (including fares and service levels) and assumed transit ridership have changed since the previous conformity determination.
- (D) The conformity determination must include reasonable assumptions about transit service and increases in transit fares and road and bridge tolls over time.
- (E) The conformity determination must use the latest existing information regarding the effectiveness of the TCMs and other implementation plan measures which have already been implemented.
- (F) Key assumptions shall be specified and included in the draft documents and supporting materials used for the interagency and public consultation required by section (5).

(11) Criteria and Procedures—Latest Emissions Model.

- (A) The conformity determination must be based on the latest emission estimation model available. This criterion is satisfied if the most current version of the motor vehicle emissions model specified by EPA for use in the preparation or revision of implementation plans in that state or area is used for the conformity analysis.
- (B) EPA will consult with DOT to establish a grace period following the specification of any new model.

1. The grace period will be no less than three (3) months and no more than twenty-four (24) months after notice of availability is published in the *Federal Register*.
  2. The length of the grace period will depend on the degree of change in the model and the scope of replanning likely to be necessary by MPOs in order to assure conformity. If the grace period will be longer than three (3) months, EPA will announce the appropriate grace period in the *Federal Register*.
- (C) Transportation plan and TIP conformity analyses for which the emissions analysis was begun during the grace period or before the *Federal Register* notice of availability of the latest emission model may continue to use the previous version of the model. Conformity determinations for projects may also be based on the previous model if the analysis was begun during the grace period or before the *Federal Register* notice of availability, and if the final environmental document for the project is issued no more than three (3) years after the issuance of the draft environmental document.
- (12) Criteria and Procedures—Consultation. Conformity must be determined according to the consultation procedures in this rule and in the applicable implementation plan, and according to the public involvement procedures established in compliance with 23 CFR part 450. Until the implementation plan is fully approved by EPA, the conformity determination must be made according to paragraph (5)(A)2. and subsection (5)(E) and the requirements of 23 CFR part 450.
- (13) Criteria and Procedures—Timely Implementation of TCMs.
- (A) The transportation plan, TIP, or any FHWA/FTA project which is not from a conforming plan and TIP must provide for the timely implementation of TCMs from the applicable implementation plan.
- (B) For transportation plans, this criterion is satisfied if the following two (2) conditions are met:
1. The transportation plan, in describing the envisioned future transportation system, provides for the timely completion or implementation of all TCMs in the applicable implementation plan which are eligible for funding under Title 23 U.S.C. or the Federal Transit Laws, consistent with schedules included in the applicable implementation plan; and
  2. Nothing in the transportation plan interferes with the implementation of any TCM in the applicable implementation plan.
- (C) For TIPs, this criterion is satisfied if the following conditions are met:
1. An examination of the specific steps and funding source(s) needed to fully implement each TCM indicates that TCMs which are eligible for funding under Title 23 U.S.C. or the Federal Transit Laws, are on or ahead of the schedule established in the applicable implementation plan, or, if such TCMs are behind the schedule established in the applicable implementation plan, the MPO and DOT have determined that past obstacles to implementation of the TCMs have been identified and have

been or are being overcome, and that all state and local agencies with influence over approvals or funding for TCMs are giving maximum priority to approval or funding of TCMs over other projects within their control, including projects in locations outside the nonattainment or maintenance area.

2. If TCMs in the applicable implementation plan have previously been programmed for federal funding but the funds have not been obligated and the TCMs are behind the schedule in the implementation plan, then the TIP cannot be found to conform if the funds intended for those TCMs are reallocated to projects in the TIP other than TCMs, or if there are no other TCMs in the TIP, if the funds are reallocated to projects in the TIP other than projects which are eligible for federal funding intended for air quality improvement projects, e.g., the Congestion Mitigation and Air Quality Improvement Program; and
  3. Nothing in the TIP may interfere with the implementation of any TCM in the applicable implementation plan.
- (D) For FHWA/FTA projects which are not from a conforming transportation plan and TIP, this criterion is satisfied if the project does not interfere with the implementation of any TCM in the applicable implementation plan.
- (14) **Criteria and Procedures—Currently Conforming Transportation Plan and TIP.** There must be a currently conforming transportation plan and currently conforming TIP at the time of project approval.
- (A) Only one (1) conforming transportation plan or TIP may exist in an area at any time; conformity determinations of a previous transportation plan or TIP expire once the current plan or TIP is found to conform by DOT. The conformity determination on a transportation plan or TIP will also lapse if conformity is not determined according to the frequency requirements specified in section (4) of this rule.
  - (B) This criterion is not required to be satisfied at the time of project approval for a TCM specifically included in the applicable implementation plan, provided that all other relevant criteria of this subsection are satisfied.
- (15) **Criteria and Procedures—Projects From a Plan and TIP.**
- (A) The project must come from a conforming plan and program. If this criterion is not satisfied, the project must satisfy all criteria in Table 1 of subsection (9)(B) for a project not from a conforming transportation plan and TIP. A project is considered to be from a conforming transportation plan if it meets the requirements of subsection (15)(B) of this rule and from a conforming program if it meets the requirements of subsection (15)(C) of this rule. Special provisions for TCMs in an applicable implementation plan are provided in subsection (15)(D) of this rule
  - (B) A project is considered to be from a conforming transportation plan if one (1) of the following conditions applies:
    1. For projects which are required to be identified in the transportation plan in order to satisfy section (6) Content of Transportation Plans of this rule,

- the project is specifically included in the conforming transportation plan and the project's design concept and scope have not changed significantly from those which were described in the transportation plan, or in a manner which would significantly impact use of the facility; or
  - 2. For projects which are not required to be specifically identified in the transportation plan, the project is identified in the conforming transportation plan, or is consistent with the policies and purpose of the transportation plan and will not interfere with other projects specifically included in the transportation plan.
- (C) A project is considered to be from a conforming program if the following conditions are met:
- 1. The project is included in the conforming TIP and the design concept and scope of the project were adequate at the time of the TIP conformity determination to determine its contribution to the TIP's regional emissions, and the project design concept and scope have not changed significantly from those which were described in the TIP; and
  - 2. If the TIP describes a project design concept and scope which includes project-level emissions mitigation or control measures, written commitments to implement such measures must be obtained from the project sponsor and/or operator as required by subsection (25)(A) in order for the project to be considered from a conforming program. Any change in these mitigation or control measures that would significantly reduce their effectiveness constitutes a change in the design concept and scope of the project.
- (D) TCMs. This criterion is not required to be satisfied for TCMs specifically included in an applicable implementation plan.
- (16) Criteria and Procedures—Localized CO and PM<sub>10</sub> Violations (Hot Spots).
- (A) This subsection applies at all times. The FHWA/FTA project must not cause or contribute to any new localized CO or PM<sub>10</sub> violations or increase the frequency or severity of any existing CO or PM<sub>10</sub> violations in CO and PM<sub>10</sub> nonattainment and maintenance areas. This criterion is satisfied if it is demonstrated that during the time frame of the transportation plan (or regional emissions analysis) no new local violations will be created and the severity or number of existing violations will not be increased as a result of the project. The demonstration must be performed according to the consultation requirements of subparagraph (5)(C)1.A. and the methodology requirements of section (23).
  - (B) This subsection applies for CO nonattainment areas as described in paragraph (9)(D)1. Each FHWA/FTA project must eliminate or reduce the severity and number of localized CO violations in the area substantially affected by the project (in CO nonattainment areas). This criteria is satisfied with respect to existing localized CO violations if it is demonstrated that during the time frame of the transportation plan (or regional emissions analysis) existing localized CO violations will be eliminated or reduced in severity and number as a result of the project. The demonstration must be performed according to the consultation

requirements of subparagraph (5)(C)1.A. and the methodology requirements of section (23).

- (17) **Criteria and Procedures—Compliance with PM<sub>10</sub> and PM<sub>2.5</sub> Control Measures.** The FHWA/FTA project must comply with any PM<sub>10</sub> and PM<sub>2.5</sub> control measures in the applicable implementation plan. This criterion is satisfied if the project-level conformity determination contains a written commitment from the project sponsor to include in the final plans, specifications, and estimates for the project those control measures (for the purpose of limiting PM<sub>10</sub> and PM<sub>2.5</sub> emissions from the construction activities and/or normal use and operation associated with the project) that are contained in the applicable implementation plan.
- (18) **Criteria and Procedures Motor Vehicle Emissions Budget.**
- (A) The transportation plan, TIP, and project not from a conforming transportation plan and TIP must be consistent with the motor vehicle emissions budget(s) in the applicable implementation plan (or implementation plan submission). This criterion applies as described in subsections (9)(C) through (L). This criterion is satisfied if it is demonstrated that emissions of the pollutants or pollutant precursors described in subsection (C) of this section are less than or equal to the motor vehicle emission budget(s) established in the applicable implementation plan or implementation plan submission.
- (B) Consistency with the motor vehicle emissions budget(s) must be demonstrated for each year for which the applicable (and/or submitted) implementation plan specifically establishes motor vehicle emissions budget(s), for the attainment year (if it is within the time frame of the transportation plan) for the last year of the transportation plan's forecast period, and for any intermediate years as necessary so that the years for which consistency is demonstrated are no more than ten (10) years apart, as follows:
1. Until a maintenance plan is submitted—
    - A. Emissions in each year (such as milestone years and the attainment year) for which the control strategy implementation plan revision establishes motor vehicle emissions budget(s) must be less than or equal to that year's motor vehicle emissions budget(s); and
    - B. Emissions in years for which no motor vehicle emissions budget(s) are specifically established must be less than or equal to the motor vehicle emissions budget(s) established for the most recent prior year. For example, emissions in years after the attainment year for which the implementation plan does not establish a budget must be less than or equal to the motor vehicle emissions budget(s) for the attainment year.
  2. When a maintenance plan has been submitted—
    - A. Emissions must be less than or equal to the motor vehicle emissions budget(s) established for the last year of the maintenance plan, and for any other years for which the maintenance plan establishes motor vehicle emissions budgets. If the maintenance plan does not



establish motor vehicle emissions budgets for any years other than the last year of the maintenance plan, the demonstration of consistency with the motor vehicle emissions budget(s) must be accompanied by a qualitative finding that there are no factors which would cause or contribute to a new violation or exacerbate an existing violation in the years before the last year of the maintenance plan. The interagency consultation process required by section (5) shall determine what must be considered in order to make such a finding;

- B. For years after the last year of the maintenance plan, emissions must be less than or equal to the maintenance plan's motor vehicle emissions budget(s) for the last year of the maintenance plan;
  - C. If an approved and/or submitted control strategy implementation plan has established motor vehicle emissions budgets for years in the time frame of the transportation plan, emissions in these years must be less than or equal to the control strategy implementation plan's motor vehicle emissions budget(s) for these years; and
  - D. For any analysis years before the last year of the maintenance plan, emissions must be less than or equal to the motor vehicle emissions budget(s) established for the most recent prior year.
- (C) Consistency with the motor vehicle emissions budget(s) must be demonstrated for each pollutant or pollutant precursor in subsection (2)(B) for which the area is in nonattainment or maintenance and for which the applicable implementation plan (or implementation plan submission) establishes a motor vehicle emissions budget.
- (D) Consistency with the motor vehicle emissions budget(s) must be demonstrated by including emissions from the entire transportation system, including all regionally significant projects contained in the transportation plan and all other regionally significant highway and transit projects expected in the nonattainment or maintenance area in the time frame of the transportation plan.
- 1. Consistency with the motor vehicle emissions budget(s) must be demonstrated with a regional emissions analysis that meets the requirements of section (22) and subparagraph (5)(C)1.A.
  - 2. The regional emissions analysis may be performed for any years in the time frame of the transportation plan provided they are not more than ten (10) years apart and provided the analysis is performed for the attainment year (if it is in the time frame of the transportation plan) and the last year of the plan's forecast period. Emissions in years for which consistency with motor vehicle emissions budgets must be demonstrated, as required in subsection (B) of this section, may be determined by interpolating between the years for which the regional emissions analysis is performed.
- (E) Motor Vehicle Emissions Budgets in Submitted Control Strategy Implementation Plan Revisions and Submitted Maintenance Plans.
- 1. Consistency with the motor vehicle emissions budgets in submitted control strategy implementation plan revisions or maintenance plans must be demonstrated if EPA has declared the motor vehicle emissions

budget(s) adequate for transportation conformity purposes, and the adequacy finding is effective. However, motor vehicle emissions budgets in submitted implementation plans do not supercede the motor vehicle emissions budgets in approved implementation plans for the same Clean Air Act requirement and the period of years addressed by the previously approved implementation plan, unless EPA specifies otherwise in its approval of a SIP.

2. If EPA has not declared an implementation plan submission's motor vehicle emissions budget(s) adequate for transportation conformity purposes, the budget(s) shall not be used to satisfy the requirements of this section. Consistency with the previously established motor vehicle emissions budget(s) must be demonstrated. If there are no previous approved implementation plans or implementation plan submissions with adequate motor vehicle emissions budgets, the interim emissions tests required by section (19) must be satisfied.
3. If EPA declares an implementation plan submission's motor vehicle emissions budget(s) inadequate for transportation conformity purposes after EPA had previously found the budget(s) adequate, and conformity of a transportation plan or TIP has already been determined by DOT using the budget(s), the conformity determination will remain valid. Projects included in that transportation plan or TIP could still satisfy sections (14) and (15), which require a currently conforming transportation plan and TIP to be in place at the time of a project's conformity determination and that projects come from a conforming transportation plan and TIP.
4. EPA will not find a motor vehicle emissions budget in a submitted control strategy implementation plan revision or maintenance plan to be adequate for transportation conformity purposes unless the following minimum criteria are satisfied:
  - A. The submitted control strategy implementation plan revision or maintenance plan was endorsed by the governor (or his or her designee) and was subject to a state public hearing;
  - B. Before the control strategy implementation plan or maintenance plan was submitted to EPA, consultation among federal, state, and local agencies occurred; full implementation plan documentation was provided to EPA; and EPA's stated concerns, if any, were addressed;
  - C. The motor vehicle emissions budget(s) is clearly identified and precisely quantified;
  - D. The motor vehicle emissions budget(s), when considered together with all other emissions sources, is consistent with applicable requirements for reasonable further progress, attainment, or maintenance (whichever is relevant to the given implementation plan submission);
  - E. The motor vehicle emissions budget(s) is consistent with and clearly related to the emissions inventory and the control measures

- in the submitted control strategy implementation plan revision or maintenance plan; and
- F. Revisions to previously submitted control strategy implementation plans or maintenance plans explain and document any changes to previously submitted budgets and control measures; impacts on point and area source emissions; any changes to established safety margins (see section (1) for definition); and reasons for the changes (including the basis for any changes related to emission factors or estimates of vehicle miles traveled).
- 5. Before determining the adequacy of a submitted motor vehicle emissions budget, EPA will review the state's compilation of public comments and response to comments that are required to be submitted with any implementation plan. EPA will document its consideration of such comments and responses in a letter to the state indicating the adequacy of the submitted motor vehicle emissions budget.
  - 6. When the motor vehicle emissions budget(s) used to satisfy the requirements of this section are established by an implementation plan submittal that has not yet been approved or disapproved by EPA, the MPO and DOT's conformity determinations will be deemed to be a statement that the MPO and DOT are not aware of any information that would indicate that emissions consistent with the motor vehicle emissions budget will cause or contribute to any new violation of any standard; increase the frequency or severity of any existing violation of any standard; or delay timely attainment of any standard or any required interim emission reductions or other milestones.
- (F) Adequacy review process for implementation plan submissions. EPA will use the procedure listed in paragraph (F)1. or (F)2. of this section to review the adequacy of an implementation plan submission—
- 1. When EPA reviews the adequacy of an implementation plan submission prior to EPA's final action on the implementation plan—
    - A. EPA will notify the public through EPA's website when EPA receives an implementation plan submission that will be reviewed for adequacy;
    - B. The public will have a minimum of thirty (30) days to comment on the adequacy of the implementation plan submission. If the complete implementation plan is not accessible electronically through the Internet and a copy is requested within fifteen (15) days of the date of the website notice, the comment period will be extended for thirty (30) days from the date that a copy of the implementation plan is mailed;
    - C. After the public comment period closes, EPA will inform the state in writing whether EPA has found the submission adequate or inadequate for use in transportation conformity, including response to any comments submitted directly and review of comments submitted through the state process, or EPA will include the

determination of adequacy or inadequacy in a proposed or final action approving or disapproving the implementation plan under subparagraph (F)2.C. of this section.

- D. EPA will establish a *Federal Register* notice to inform the public of EPA's finding. If EPA finds the submission adequate, the effective date of this finding will be fifteen (15) days from the date the notice is published as established in the *Federal Register* notice, unless EPA is taking a final approval action on the SIP as described in subparagraph (F)2.C. of this section.
- E. EPA will announce whether the implementation plan submission is adequate or inadequate for use in transportation conformity on EPA's website. The website will also include EPA's response to comments if any comments were received during the public comment period.
- F. If after EPA has found a submission adequate, EPA has cause to reconsider this finding, EPA will repeat actions described in subparagraphs (F)1.A. through E. or paragraph (F)2. of this section unless EPA determines that there is no need for additional public comment given the deficiencies of the implementation plan submission. In all cases where EPA reverses its previous finding to a finding of inadequacy under paragraph (F)1. of this section, such a finding will become effective immediately upon the date of EPA's letter to the state.
- G. If after EPA has found a submission inadequate, EPA has cause to reconsider the adequacy of that budget, EPA will repeat actions described in subparagraphs (F)1.A. through E. or paragraph (F)2. of this section.

2. When EPA reviews the adequacy of an implementation plan submission simultaneously with EPA's approval or disapproval of the implementation plan—

- A. EPA's *Federal Register* notice of proposed or direct final rulemaking will serve to notify the public that EPA will be reviewing the implementation plan submission for adequacy.
- B. The publication of the notice of proposed rulemaking will start a public comment period of at least thirty (30) days.
- C. EPA will indicate whether the implementation plan submission is adequate and thus can be used for conformity either in EPA's final rulemaking or through the process described in subparagraphs (F)1.C. through E. of this section. If EPA makes an adequacy finding through a final rulemaking that approves the implementation plan submission, such a finding will become effective upon the publication of EPA's approval in the *Federal Register*, or upon the effective date of EPA's approval if such action is conducted through direct final rulemaking. EPA will respond to comments received directly and review comments

submitted through the state process and include the response to comments in the applicable docket.

(19) **Criteria and Procedures—Interim Emissions in Areas without Motor Vehicle Emissions Budgets.**

- (A) The transportation plan, TIP, and project not from a conforming transportation plan and TIP must satisfy the interim emissions test(s) as described in subsections (9)(C) through (L). This criterion applies to the net effect of the action (transportation plan, TIP, or project not from a conforming transportation plan and TIP) on motor vehicle emissions from the entire transportation system.
- (B) Ozone areas. The requirements of this paragraph apply to all one (1)-hour ozone and eight (8)-hour ozone NAAQS areas, except for certain requirements as indicated. This criterion may be met—
  - 1. In moderate and above ozone nonattainment areas that are subject to the reasonable further progress requirements of CAA section 182(b)(1) if a regional emissions analysis that satisfies the requirements of section (22) and subsections (G) through (J) of this section demonstrates that for each analysis year and for each of the pollutants described in subsection (F) of this section—
    - A. The emissions predicted in the “Action” scenario are less than the emissions predicted in the “Baseline” scenario, and this can be reasonably expected to be true in the periods between the analysis years; and
    - B. The emissions predicted in the “Action” scenario are lower than—
      - (I) 1990 emissions by any nonzero amount, in areas for the one (1)-hour ozone NAAQS as described in subsection (9)(C); or
      - (II) 2002 emissions by any nonzero amount, in areas for the eight (8)-hour ozone NAAQS as described in subsections (9)(D) and (E).
  - 2. In marginal and below ozone nonattainment areas and other ozone nonattainment areas that are not subject to the reasonable further progress requirements of CAA section 182(b)(1) if a regional emissions analysis that satisfies the requirements of section (22) and subsections (G) through (J) of this section demonstrates that for each analysis year and for each of the pollutants described in subsection (F) of this section—
    - A. The emissions predicted in the “Action” scenario are not greater than the emissions predicted in the “Baseline” scenario, and this can be reasonably expected to be true in the periods between the analysis years; or
    - B. The emissions predicted in the “Action” scenario are not greater than—
      - (I) 1990 emissions, in areas for the one (1)-hour ozone NAAQS as described in subsection (9)(C); or

(II) 2002 emissions, in areas for the eight (8)-hour ozone NAAQS as described in subsections (9)(D) and (E).

(C) CO Areas. This criterion may be met—

1. In moderate areas with design value greater than 12.7 ppm and serious CO nonattainment areas that are subject to CAA section 187(a)(7) if a regional emissions analysis that satisfies the requirements of section (22) and subsections (G) through (J) of this section demonstrates that for each analysis year and for each of the pollutants described in subsection (F) of this section—
  - A. The emissions predicted in the “Action” scenario are less than the emissions predicted in the “Baseline” scenario, and this can be reasonably expected to be true in the periods between the analysis years; and
  - B. The emissions predicted in the “Action” scenario are lower than 1990 emissions by any nonzero amount.
2. In moderate areas with design value less than 12.7 ppm and not classified CO nonattainment areas if a regional emissions analysis that satisfies the requirements of section (22) and subsections (G) through (J) of this section demonstrates that for each analysis year and for each of the pollutants described in subsection (F) of this section—
  - A. The emissions predicted in the “Action” scenario are not greater than the emissions predicted in the “Baseline” scenario, and this can be reasonably expected to be true in the periods between the analysis years; or
  - B. The emissions predicted in the “Action” scenario are not greater than 1990 emissions.

(D) PM<sub>10</sub> and NO<sub>2</sub> areas. This criterion may be met in PM<sub>10</sub> and NO<sub>2</sub> nonattainment areas a regional emissions analysis that satisfies the requirements of section (22) and subsections (G) and (J) of this section demonstrates that for each analysis year and for each of the pollutants described in subsection (F) of this section, one (1) of the following requirements is met—

1. The emissions predicted in the “Action” scenario are not greater than the emissions predicted in the “Baseline” scenario, and this can be reasonably expected to be true in the periods between the analysis years; or
2. The emissions predicted in the “Action” scenario are not greater than baseline emissions. Baseline emissions are those estimated to have occurred during calendar year 1990, unless a conformity plan defines the baseline emissions for a PM<sub>10</sub> area to be those occurring in a different calendar year for which a baseline emissions inventory was developed for the purpose of developing a control strategy implementation plan.

(E) PM<sub>2.5</sub> Areas. This criterion may be met in PM<sub>2.5</sub> nonattainment areas if a regional emissions analysis that satisfies the requirements of section (22) and subsections (G) and (J) of this section demonstrates that for each analysis year and for each of the pollutants described in paragraph (F) of this section, one (1) of the following requirements is met—

1. The emissions predicted in the “Action” scenario are not greater than the emissions predicted in the “Baseline” scenario, and this can be reasonably expected to be true in the periods between the analysis years; or
  2. The emissions predicted in the “Action” scenario are not greater than 2002 emissions.
- (F) Pollutants. The regional emissions analysis must be performed for the following pollutants:
1. VOC in ozone areas;
  2. NO<sub>x</sub> in ozone areas, unless the EPA administrator determines that additional reductions of NO<sub>x</sub> would not contribute to attainment;
  3. CO in CO areas;
  4. PM<sub>10</sub> in PM<sub>10</sub> areas;
  5. VOC and/or NO<sub>x</sub> in PM<sub>10</sub> areas if the EPA regional administrator or the director of the state air agency has made a finding that one or both of such precursor emissions from within the area are a significant contributor to the PM<sub>10</sub> nonattainment problem and has so notified the MPO and DOT;
  6. NO<sub>x</sub> in NO<sub>2</sub> areas;
  7. PM<sub>2.5</sub> in PM<sub>2.5</sub> areas; and
  8. Re-entrained road dust in PM<sub>2.5</sub> areas only if the EPA regional administrator or the director of the state air agency has made a finding that emissions from re-entrained road dust within the area are a significant contributor to the PM<sub>2.5</sub> nonattainment problem and has so notified the MPO and DOT.
- (G) Analysis Years.
1. The regional emissions analysis must be performed for analysis years that are no more than ten (10) years apart. The first analysis year must be no more than five (5) years beyond the year in which the conformity determination is being made. The last year of transportation plan's forecast period must also be an analysis year.
  2. For areas using subparagraphs (B)2.A., (C)2.A. and paragraphs (D)1., and (E)1. of this section, a regional emissions analysis that satisfies the requirements of section (22) and subsections (G) and (J) of this section would not be required for analysis years in which the transportation projects and planning assumption in the “Action” and “Baseline” scenarios are exactly the same. In such a case, subsection (A) of this section can be satisfied by documenting that the transportation projects and planning assumptions in both scenarios are exactly the same, and consequently, the emissions predicted in the “Action” scenario are not greater than the emissions predicted in the “Baseline” scenario for such analysis years.
- (H) “Baseline” Scenario. The regional emissions analysis required by subsections (B) through (E) of this section must estimate the emissions that would result from the “Baseline” scenario in each analysis year. The “Baseline” scenario must be defined for each of the analysis years. The “Baseline” scenario is the future transportation system that will result from current programs, including the

following (except that exempt projects listed in section (26) and projects exempt from regional emissions analysis as listed in section (27) need not be explicitly considered):

1. All in-place regionally significant highway and transit facilities, services and activities;
2. All ongoing travel demand management or transportation system management activities; and
3. Completion of all regionally significant projects, regardless of funding source, which are currently under construction or are undergoing right-of-way acquisition (except for hardship acquisition and protective buying); come from the first year of the previously conforming transportation plan and/or TIP; or have completed the NEPA process.

(I) “Action” scenario. The regional emissions analysis required by subsections (B) through (E) of this section must estimate the emissions that would result from the “Action” scenario in each analysis year. The “Action” scenario must be defined for each of the analysis years. The “Action” scenario is the transportation system that would result from the implementation of the proposed action (transportation plan, TIP, or project not from a conforming transportation plan and TIP) and all other expected regionally significant projects in the nonattainment area. The “Action” scenario must include the following (except that exempt projects listed in section (26) and projects exempt from regional emissions analysis as listed section (27) need not be explicitly considered):

1. All facilities, services, and activities in the “Baseline” scenario;
2. Completion of all TCMs and regionally significant projects (including facilities, services, and activities) specifically identified in the proposed transportation plan which will be operational or in effect in the analysis year, except that regulatory TCMs may not be assumed to begin at a future time unless the regulation is already adopted by the enforcing jurisdiction or the TCM is identified in the applicable implementation plan;
3. All travel demand management programs and transportation system management activities known to the MPO, but not included in the applicable implementation plan or utilizing any federal funding or approval, which have been fully adopted and/or funded by the enforcing jurisdiction or sponsoring agency since the last conformity determination;
4. The incremental effects of any travel demand management programs and transportation system management activities known to the MPO, but not included in the applicable implementation plan or utilizing any federal funding or approval, which were adopted and/or funded prior to the date of the last conformity determination, but which have been modified since then to be more stringent or effective;
5. Completion of all expected regionally significant highway and transit projects which are not from a conforming transportation plan and TIP; and
6. Completion of all expected regionally significant non-FHWA/FTA highway and transit projects that have clear funding sources and



commitments leading toward their implementation and completion by the analysis year.

- (J) Projects not from a conforming transportation plan and TIP. For the regional emissions analysis required by subsections (B) through (E) of this section, if the project which is not from a conforming transportation plan and TIP is a modification of a project currently in the plan or TIP, the “Baseline” scenario must include the project with its original design concept and scope, and the “Action” scenario must include the project with its new design concept and scope.

(20) Consequences of Control Strategy Implementation Plan Failures.

(A) Disapprovals.

1. If EPA disapproves any submitted control strategy implementation plan revision (with or without a protective findings), the conformity status of the transportation plan and TIP shall lapse on the date that highway sanctions as a result of the disapproval are imposed on the nonattainment area under section 179(b)(1) of the CAA. No new transportation plan, TIP, or project may be found to conform until another control strategy implementation plan revision fulfilling the same CAA requirements is submitted and conformity to this submission is determined.
2. If EPA disapproves a submitted control strategy implementation plan revision without making a protective finding, only projects in the first three (3) years of the currently conforming transportation plan and TIP may be found to conform. This means that beginning on the effective date of disapproval without a protective finding, no transportation plan, TIP, or project not in the first three (3) years of the currently conforming transportation plan and TIP may be found to conform until another control strategy implementation plan revision fulfilling the same CAA requirements is submitted, EPA finds its motor vehicle emissions budget(s) adequate pursuant to section (18) of this rule or approves the submission, and conformity to the implementation plan revision is determined.
3. In disapproving a control strategy implementation plan revision, EPA would give a protective finding where a submitted plan contains adopted control measures or written commitments to adopt enforceable control measures that fully satisfy the emissions reductions requirements relevant to the statutory provision for which the implementation plan revision was submitted, such as reasonable further progress or attainment.

(A) Failure to Submit and Incompleteness. In areas where EPA notifies the state, MPO, and DOT of the state’s failure to submit a control strategy implementation plan or submission of an incomplete control strategy implementation plan revision, (either of which initiates the sanction process under CAA section 179 or 110(m)), the conformity status of the transportation plan and TIP shall lapse on the date that highway sanctions are imposed on the nonattainment area for such failure under section 179(b)(1) of the

CAA, unless the failure has been remedied and acknowledged by a letter from the EPA regional administrator.

- (A) Federal Implementation Plans. If the EPA promulgates a federal implementation plan that contains motor vehicle emissions budget(s) as a result of a state failure, the conformity lapse imposed by this section because of that state failure is removed.
- (B) Failure to Submit and Incompleteness. In areas where EPA notifies the state, MPO, and DOT of the state's failure to submit a control strategy implementation plan or submission of an incomplete control strategy implementation plan revision, (either of which initiates the sanction process under CAA section 179 or 110(m)), the conformity status of the transportation plan and TIP shall lapse on the date that highway sanctions are imposed on the nonattainment area for such failure under section 179(b)(1) of the CAA, unless the failure has been remedied and acknowledged by a letter from the EPA regional administrator.
- (C) Federal Implementation Plans. If EPA promulgates a federal implementation plan that contains motor vehicle emissions budget(s) as a result of a state failure, the conformity lapse imposed by this section because of that state failure is removed.

(21) Requirements for Adoption or Approval of Projects by Other Recipients of Funds Designated under Title 23 U.S.C. or Title 49 U.S.C..

- (A) Except as provided in subsection (B) of this section, no recipient of federal funds designated under Title 23 U.S.C. or Title 49 U.S.C. shall adopt or approve a regionally significant highway or transit project, regardless of funding source, unless the recipient finds that the requirements of one (1) of the following are met:
  - 1. The project comes from the currently conforming transportation plan and TIP, and the project's design concept and scope have not changed significantly from those which were included in the regional emissions analysis for that transportation plan and TIP;
  - 2. The project is included in the regional emissions analysis for the currently conforming transportation plan and TIP conformity determination (even if the project is not strictly included in the transportation plan or TIP for the purpose of MPO project selection or endorsement) and the project's design concept and scope have not changed significantly from those which were included in the regional emissions analysis; or
  - 3. A new regional emissions analysis including the project and the currently conforming transportation plan and TIP demonstrates that the transportation plan and TIP would still conform if the project were implemented (consistent with the requirements of sections (18) and/or (19) for a project not from a conforming transportation plan and TIP).
- (B) In isolated rural nonattainment and maintenance areas subject to subsection (9)(A), no recipient of Federal funds designated under Title 23 U.S.C. or Title 49 U.S.C. shall adopt or approve a regionally significant highway or transit project, regardless of funding source, unless the recipient finds that the requirements of one (1) of the following are met:

1. The project was included in the regional emissions analysis supporting the most recent conformity determination that reflects the portion of the statewide transportation plan and statewide TIP which are in the nonattainment or maintenance area, and the project's design concept and scope has not changed significantly; or
  2. A new regional emissions analysis including the project and all other regionally significant projects expected in the nonattainment or maintenance area demonstrates that those projects in the statewide transportation plan and statewide TIP which are in the nonattainment or maintenance area would still conform if the project was implemented (consistent with the requirements of sections (18) and/or (19) for projects not from a conforming transportation plan and TIP).
- (C) Notwithstanding subsections (A) and (B) of this section, in nonattainment and maintenance areas subject to subsections (9)(J) or (K) for a given pollutant/precursor and NAAQS, no recipient of federal funds designated under Title 23 U.S.C. or Title 49 U.S.C. shall adopt or approve a regionally significant highway or transit project, regardless of funding source, unless the recipient finds that the requirements of one (1) of the following are met for that pollutant/precursor and NAAQS:
1. The project was included in the most recent conformity determination for the transportation plan and TIP and the project's design concept and scope has not changed significantly; or
  2. The project was included in the most recent conformity determination that reflects the portion of the statewide transportation plan and statewide TIP which are in the nonattainment or maintenance area, and the project's design concept and scope has not changed significantly.

(22) Procedures for Determining Regional Transportation-Related Emissions.

(A) General Requirements.

1. The regional emissions analysis required by section (18) and section (19) of this rule for the transportation plan, TIP, or project not from a conforming plan and TIP must include all regionally significant projects expected in the nonattainment or maintenance area. The analysis shall include FHWA/FTA projects proposed in the transportation plan and TIP and all other regionally significant projects which are disclosed to the MPO as required by section (5) of this rule. Projects which are not regionally significant are not required to be explicitly modeled, but vehicle miles traveled (VMT) from such projects must be estimated in accordance with reasonable professional practice. The effects of TCMs and similar projects that are not regionally significant may also be estimated in accordance with reasonable professional practice.
2. The emissions analysis may not include for emissions reduction credit any TCMs or other measures in the applicable implementation plan which have been delayed beyond the scheduled date(s) until such time as their implementation has been assured. If the measure has been partially

implemented and it can be demonstrated that it is providing quantifiable emission reduction benefits, the emissions analysis may include that emissions reduction credit.

3. Emissions reduction credit from projects, programs, or activities which require a regulatory action in order to be implemented may not be included in the emissions analysis unless—
  - A. The regulatory action is already adopted by the enforcing jurisdiction;
  - B. The project, program, or activity is included in the applicable implementation plan;
  - C. The control strategy implementation plan submission or maintenance plan submission that establishes the motor vehicle emissions budget(s) for the purposes of section (18) contains a written commitment to the project, program, or activity by the agency with authority to implement it; or
  - D. EPA has approved an opt-in to a federally enforced program, EPA has promulgated the program (if the control program is a federal responsibility, such as tailpipe standards), or the Clean Air Act requires the program without need for individual state action and without any discretionary authority for EPA to set its stringency, delay its effective date, or not implement the program.
4. Notwithstanding paragraph (22)(A)3. of this rule, emission reduction credit from control measures that are not included in the transportation plan and TIP and that do not require a regulatory action in order to be implemented may not be included in the emissions analysis unless the conformity determination includes written commitments to implementation from the appropriate entities.
  - A. Persons or entities voluntarily committing to control measures must comply with the obligations of such commitments.
  - B. Written commitments to mitigation measures must be obtained prior to a conformity determination, and project sponsors must comply with such commitments.
5. A regional emissions analysis for the purpose of satisfying the requirements of section (19) must make the same assumptions in both the “Baseline” and “Action” scenarios regarding control measures that are external to the transportation system itself, such as vehicle tailpipe or evaporative emission standards, limits on gasoline volatility, vehicle inspection and maintenance programs, and oxygenated or reformulated gasoline or diesel fuel.
6. The ambient temperatures used for the regional emissions analysis shall be consistent with those used to establish the emissions budget in the applicable implementation plan. All other factors, for example the fraction of travel in a hot stabilized engine mode, must be consistent with the applicable implementation plan, unless modified after interagency consultation in accordance with subparagraph (5)(C)1.A. to incorporate

additional or more geographically specific information or represent a logically estimated trend in such factors beyond the period considered in the applicable implementation plan.

7. Reasonable methods shall be used to estimate nonattainment or maintenance area vehicle miles traveled (VMT) on off-network roadways within the urban transportation planning area, and on roadways outside the urban transportation planning area.

(B) Regional emissions analysis in serious, severe, and extreme ozone nonattainment areas must meet the requirements of paragraphs (B)1. through 3. of this section if their metropolitan planning area contains an urbanized area population over two hundred thousand (200,000).

1. Beginning January 1, 1997, estimates of regional transportation-related emissions used to support conformity determinations must be made at a minimum using network-based travel models according to procedures and methods that are available and in practice and supported by current and available documentation. These procedures, methods, and practices are available from DOT and will be updated periodically. Agencies must discuss these modeling procedures and practices through the interagency consultation process, as required by subparagraph (5)(C)1.A. Network-based travel models must at a minimum satisfy the following requirements—

- A. Network-based travel models must be validated against observed counts (peak and off-peak, if possible) for a base year that is not more than ten (10) years prior to the date of the conformity determination. Model forecasts must be analyzed for reasonableness and compared to historical trends and other factors, and the results must be documented;
- B. Land use, population, employment, and other network-based travel model assumptions must be documented and based on the best available information;
- C. Scenarios of land development and use must be consistent with the future transportation system alternatives for which emissions are being estimated. The distribution of employment and residences for different transportation options must be reasonable;
- D. A capacity-sensitive assignment methodology must be used, and emissions estimates must be based on a methodology which differentiates between peak and off-peak link volumes and speeds and uses speeds based on final assigned volumes;
- E. Zone-to-zone travel impedances used to distribute trips between origin and destination pairs must be in reasonable agreement with the travel times that are estimated from final assigned traffic volumes. Where use of transit currently is anticipated to be a significant factor in satisfying transportation demand, these times should also be used for modeling mode splits; and

- F. Network-based travel models must be reasonably sensitive to changes in the time(s), cost(s), and other factors affecting travel choices.
  - 2. Reasonable methods in accordance with good practice must be used to estimate traffic speeds and delays in a manner that is sensitive to the estimated volume of travel on each roadway segment represented in the network-based travel model.
  - 3. Highway Performance Monitoring System (HPMS) estimates of vehicle miles traveled (VMT) shall be considered the primary measure of VMT within the portion of the nonattainment or maintenance area and for the functional classes of roadways included in HPMS, for urban areas which are sampled on a separate urban area basis. For areas with network-based travel models, a factor (or factors) may be developed to reconcile and calibrate the network-based travel model estimates of VMT in the base year of its validation to the HPMS estimates for the same period. These factors may then be applied to model estimates of future VMT. In this factoring process, consideration will be given to differences between HPMS and network-based travel models, such as differences in the facility coverage of the HPMS and the modeled network description. Locally developed count-based programs and other departures from these procedures are permitted subject to the interagency consultation procedures of subparagraph (5)(C)1.A.
- (C) Two (2)-year grace period for regional emissions analysis requirements in certain ozone and CO areas. The requirements of subsection (B) of this section apply to such areas or portions of such areas that have not previously been required to meet these requirements for any existing NAAQS two (2) years from the following:
- 1. The effective date of EPA's reclassification of an ozone or CO nonattainment area that has an urbanized area population greater than two hundred thousand (>200,000) to serious or above;
  - 2. The official notice by the Census Bureau that determines the urbanized area population of a serious or above ozone or CO nonattainment area to be greater than two hundred thousand (>200,000); or
  - 3. The effective date of EPA's action that classifies a newly designated ozone or CO nonattainment area that has an urbanized area population greater than two hundred thousand (>200,000) as serious or above.
- (D) In all areas not otherwise subject to subsection (B) of this section, regional emissions analyses must use those procedures described in subsection (B) of this section if the use of those procedures has been the previous practice of the MPO. Otherwise, areas not subject to subsection (B) of this section may estimate regional emissions using any appropriate methods that account for VMT growth by, for example, extrapolating historical VMT or projecting future VMT by considering growth in population and historical growth trends for VMT per person. These methods must also consider future economic activity, transit alternatives, and transportation system policies.

- (E)  $PM_{10}$  from Construction-Related Fugitive Dust.
1. For areas in which the implementation plan does not identify construction-related fugitive  $PM_{10}$  as a contributor to the nonattainment problem, the fugitive  $PM_{10}$  emissions associated with highway and transit project construction are not required to be considered in the regional emissions analysis.
  2. In  $PM_{10}$  nonattainment and maintenance areas with implementation plans which identify construction-related fugitive  $PM_{10}$  as a contributor to the nonattainment problem, the regional  $PM_{10}$  emissions analysis shall consider construction-related fugitive  $PM_{10}$  and shall account for the level of construction activity, the fugitive  $PM_{10}$  control measures in the applicable implementation plan, and the dust-producing capacity of the proposed activities.
- (F)  $PM_{2.5}$  from construction-related fugitive dust.
1. For  $PM_{2.5}$  areas in which the implementation plan does not identify construction-related fugitive  $PM_{2.5}$  as a significant contributor to the nonattainment problem, the fugitive  $PM_{2.5}$  emissions associated with highway and transit project construction are not required to be considered in the regional emissions analysis.
  2. In  $PM_{2.5}$  nonattainment and maintenance areas with implementation plans which identify construction-related fugitive  $PM_{2.5}$  as a significant contributor to the nonattainment problem, the regional  $PM_{2.5}$  emissions analysis shall consider construction-related fugitive  $PM_{2.5}$  and shall account for the level of construction activity, the fugitive  $PM_{2.5}$  control measures in the applicable implementation plan, and the dust-producing capacity of the proposed activities.
- (G) Reliance on Previous Regional Emissions Analysis.
1. Conformity determinations for a new transportation plan and/or TIP may be demonstrated to satisfy the requirements of section (18) Motor Vehicle Emissions Budget or section (19) Interim Emissions in Areas without Motor Vehicle Emissions Budgets of this rule without new regional analysis if the previous regional emissions analysis also applies to the new plan and/or TIP. This requires a demonstration that—
    - A. The new plan and/or TIP contains all projects which must be started in the plan and TIP's time frames in order to achieve the highway and transit system envisioned by the transportation plan;
    - B. All plan and TIP projects which are regionally significant are included in the transportation plan with design concept and scope adequate to determine their contribution to the transportation plan's and/or TIP's regional emissions at the time of the previous conformity determination;
    - C. The design concept and scope of each regionally significant project in the new plan and/or TIP is not significantly different from that described in the previous transportation plan; and

- D. The previous regional emissions analysis is consistent with the requirements of section (18) (including that conformity to all currently applicable budgets is demonstrated) and/or section (19), as applicable.
- 2. A project which is not from a conforming transportation plan and a conforming TIP may be demonstrated to satisfy the requirements of section (18) or section (19) of this rule without additional regional emissions analysis if allocating funds to the project will not delay the implementation of projects in the transportation plan or TIP which are necessary to achieve the highway and transit system envisioned by the transportation plan, the previous regional emissions analysis is still consistent with the requirements of section (18) (including that conformity to all currently applicable budgets is demonstrated) and/or section (19) as applicable, and if the project is either—
  - A. Not regionally significant; or
  - B. Included in the conforming transportation plan (even if it is not specifically included in the latest conforming TIP) with design concept and scope adequate to determine its contribution to the transportation plan's regional emissions at the time of the transportation plan's conformity determination, and the design concept and scope of the project is not significantly different from that described in the transportation plan.
- 3. A conformity determination that relies on subsection (G) of this section does not satisfy the frequency requirements of subsection (4)(B) or (C).

(23) Procedures for Determining Localized CO and PM<sub>10</sub> Concentrations (Hot-Spot Analysis).

(A) CO Hot-Spot Analysis.

- 1. The demonstrations required by section (16) must be based on quantitative analysis using air quality models, databases, and other requirements specified in 40 CFR part 51, Appendix W (Guideline on Air Quality Models). These procedures shall be used in the following cases, unless different procedures developed through the interagency consultation process required in section (5) and approved by the EPA regional administrator are used:
  - A. For projects in or affecting locations, areas, or categories of sites which are identified in the applicable implementation plan as sites of violation or possible violation;
  - B. For projects affecting intersections that are at Level-of-Service D, E, or F, or those that will change to Level-of-Service D, E, or F because of increased traffic volumes related to the project;
  - C. For any project affecting one (1) or more of the top three (3) intersections in the nonattainment or maintenance area with highest traffic volumes, as identified in the applicable implementation plan; and



- D. For any project affecting one (1) or more of the top three (3) intersections in the nonattainment or maintenance area with the worst level-of-service, as identified in the applicable implementation plan.
  - 2. In cases other than those described in paragraph (A)1. of this section, the demonstrations required by section (16) may be based on either—
    - A. Quantitative methods that represent reasonable and common professional practice; or
    - B. A quantitative consideration of local factors, if this can provide a clear demonstration that the requirements of section (16) are met.
- (B) PM<sub>10</sub> Hot-Spot Analysis.
- 1. The hot-spot demonstration required by section (16) must be based on quantitative analysis methods for the following types of projects:
    - A. Projects which are located at sites at which violations have been verified by monitoring;
    - B. Projects which are located at sites which have vehicle and roadway emission and dispersion characteristics that are essentially identical to those of sites with verified violations (including sites near one at which a violation has been monitored); and
    - C. New or expanded bus and rail terminals and transfer points which increase the number of diesel vehicles congregating at a single location.
  - 2. Where quantitative analysis methods are not required, the demonstration required by section (16) may be based on a qualitative consideration of local factors.
  - 3. The identification of the sites described in subparagraphs (B)1. A. and B. of this section, and other cases where quantitative methods are appropriate, shall be determined through the interagency consultation process required in section (5). DOT may choose to make a categorical conformity determination on bus and rail terminals or transfer points based on appropriate modeling of various terminal sizes, configurations, and activity levels.
  - 4. The requirements for quantitative analysis contained in subsection (23)(B) will not take effect until EPA releases modeling guidance on this subject and announces in the *Federal Register* that these requirements are in effect.
- (C) General Requirements.
- 1. Estimated pollutant concentrations must be based on the total emissions burden which may result from the implementation of the project, summed together with future background concentrations. The total concentrations must be estimated and analyzed at appropriate receptor locations in the area substantially affected by the project.
  - 2. Hot-spot analyses must include the entire project, and may be performed only after the major design features which will significantly impact concentrations have been identified. The future background concentration

should be estimated by multiplying current background by the ratio of future to current traffic and the ratio of future to current emission factors.

3. Hot-spot analysis assumptions must be consistent with those in the regional emissions analysis for those inputs which are required for both analyses.
4. PM<sub>10</sub> or CO mitigation or control measures shall be assumed in the hot-spot analysis only where there are written commitments from the project sponsor and/or operator to implement such measures, as required by subsection (25)(A).
5. CO and PM<sub>10</sub> hot-spot analyses are not required to consider construction-related activities which cause temporary increases in emissions. Each site which is affected by construction-related activities shall be considered separately, using established "Guideline" methods. Temporary increases are defined as those which occur only during the construction phase and last five (5) years or less at any individual site.

(24) Using the Motor Vehicle Emissions Budget in the Applicable Implementation Plan (or Implementation Plan Submission).

- (A) In interpreting an applicable implementation plan (or implementation plan submission) with respect to its motor vehicle emissions budget(s), the MPO and DOT may not infer additions to the budget(s) that are not explicitly intended by the implementation plan (or submission). Unless the implementation plan explicitly quantifies the amount by which motor vehicle emissions could be higher while still allowing a demonstration of compliance with the milestone, attainment, or maintenance requirement and explicitly states an intent that some or all of this additional amount should be available to the MPO and DOT in the emission budget for conformity purposes, the MPO may not interpret the budget to be higher than the implementation plan's estimate of future emissions. This applies in particular to applicable implementation plans (or submissions) which demonstrate that after implementation of control measures in the implementation plan—
  1. Emissions from all sources will be less than the total emissions that would be consistent with a required demonstration of an emissions reduction milestone;
  2. Emissions from all sources will result in achieving attainment prior to the attainment deadline and/or ambient concentrations in the attainment deadline year will be lower than needed to demonstrate attainment; or
  3. Emissions will be lower than needed to provide for continued maintenance.
- (B) A conformity demonstration shall not trade emissions among budgets which the applicable implementation plan (or implementation plan submission) allocates for different pollutants or precursors, or among budgets allocated to motor vehicles and other sources, unless the implementation plan establishes mechanisms for such trades.
- (C) If the applicable implementation plan (or implementation plan submission) estimates future emissions by geographic subarea of the nonattainment area, the MPO and DOT are not required to consider this to establish subarea budgets,

unless the applicable implementation plan (or implementation plan submission) explicitly indicates an intent to create such subarea budgets for the purposes of conformity.

- (D) If a nonattainment area includes more than one MPO, the implementation plan may establish motor vehicle emissions budgets for each MPO, or else the MPOs must collectively make a conformity determination for the entire nonattainment area.

(25) Enforceability of Design Concept and Scope and Project-Level Mitigation and Control Measures.

- (A) Prior to determining that a transportation project is in conformity, the MPO, other recipient of funds designated under Title 23 U.S.C. or Title 49 U.S.C., FHWA, or FTA must obtain from the project sponsor and/or operator written commitments to implement in the construction of the project and operation of the resulting facility or service any project-level mitigation or control measures which are identified as conditions for NEPA process completion with respect to local PM<sub>10</sub> or CO impacts. Before a conformity determination is made, written commitments must also be obtained for project-level mitigation or control measures which are conditions for making conformity determinations for a transportation plan or TIP and are included in the project design concept and scope which is used in the regional emissions analysis required by sections (18) Motor Vehicle Emissions Budget and (19) Interim Emissions in Areas Without Motor Vehicles Emissions Budgets or used in the project-level hot-spot analysis required by section (16).

- (B) Project sponsors voluntarily committing to mitigation measures to facilitate positive conformity determinations must comply with the obligations of such commitments.

- (C) Written commitments to mitigation measures must be obtained prior to a conformity determination, and project sponsors must comply with such commitments.

- (D) If the MPO or project sponsor believes the mitigation or control measure is no longer necessary for conformity, the project sponsor or operator may be relieved of its obligation to implement the mitigation or control measure if it can demonstrate that the applicable emission budget requirements of section (18) and interim emissions requirements of section (19) are satisfied without the mitigation or control measure, and so notifies the agencies involved in the interagency consultation process required under section (5). The MPO and DOT must find that the transportation plan and TIP still satisfy the applicable requirements of sections (18) and/or (19), and therefore that the conformity determinations for the transportation plan, TIP, and project are still valid. This finding is subject to the applicable public consultation requirements in subsection (5)(E) for conformity determination for projects.

(26) Exempt Projects. Notwithstanding the other requirements of this rule, highway and transit projects of the types listed in Table 2 of this section are exempt from the requirement to determine conformity. Such projects may proceed toward implementation

even in the absence of a conforming transportation plan and TIP. A particular action of the type listed in Table 2 of this section is not exempt if the MPO in consultation with other agencies (see subparagraph (5)(C)1.C.), the EPA, and the FHWA (in the case of a highway project) or the FTA (in the case of a transit project) concur that it has potentially adverse emissions impacts for any reason. The state and the MPO must ensure that exempt projects do not interfere with TCM implementation. Table 2 follows:

**Table 2—Exempt Projects**

**Safety**

- Railroad/highway crossing
- Hazard elimination program
- Safer nonfederal-aid system roads
- Shoulder improvements
- Increasing sight distance
- Safety improvement program
- Traffic control devices and operating assistance other than signalization projects
- Railroad/highway crossing warning devices
- Guardrails, median barriers, crash cushions
- Pavement resurfacing or rehabilitation
- Pavement marking demonstration
- Emergency relief (23 U.S.C. 125)
- Fencing
- Skid treatments
- Safety roadside rest areas
- Adding medians
- Truck climbing lanes outside the urbanized area
- Lighting improvements
- Widening narrow pavements or reconstructing bridges (no additional travel lanes)
- Emergency truck pullovers

**Mass Transit**

- Operating assistance to transit agencies
- Purchase of support vehicles
- Rehabilitation of transit vehicles<sup>1</sup>
- Purchase of office, shop, and operating equipment for existing facilities
- Purchase of operating equipment for vehicles (e.g., radios, fare boxes, lifts, etc.)
- Construction or renovation of power, signal, and communications systems
- Construction of small passenger shelters and information kiosks
- Reconstruction or renovation of transit buildings and structures (e.g., rail or bus buildings, storage and maintenance facilities, stations, terminals, and ancillary structures)
- Rehabilitation or reconstruction of track structures, track, and trackbed in existing rights-of-way

Purchase of new buses and rail cars to replace existing vehicles or for minor expansions of the fleet<sup>1</sup>

Construction of new bus or rail storage/maintenance facilities categorically excluded in 23 CFR part 771

### **Air Quality**

Continuation of ride-sharing and van-pooling promotion activities at current levels

Bicycle and pedestrian facilities

### **Other**

Specific activities which do not involve or lead directly to construction, such as—  
Planning and technical studies

Grants for training and research programs

Planning activities conducted pursuant to Titles 23 and Title 49 U.S.C. Federal-aid systems revisions

Engineering to assess social, economic, and environmental effects of the proposed action or alternatives to that action

Noise attenuation

Emergency or hardship advance land acquisitions (23 CFR 710.503)

Acquisition of scenic easements

Plantings, landscaping, etc.

Sign removal

Directional and informational signs

Transportation enhancement activities (except rehabilitation and operation of historic transportation buildings, structures, or facilities)

Repair of damage caused by natural disasters, civil unrest, or terrorist acts, except projects involving substantial functional, locational, or capacity changes

<sup>1</sup>Note—In PM<sub>10</sub> nonattainment or maintenance areas, such projects are exempt only if they are in compliance with control measures in the applicable implementation plan.

- (27) Projects Exempt From Regional Emissions Analyses. Notwithstanding the other requirements of this rule, highway and transit projects of the types listed in Table 3 of this section are exempt from regional emissions analysis requirements. These projects may then proceed to the project development process even in the absence of a conforming transportation plan and TIP. A particular action of the type listed in Table 3 of this section is not exempt from regional emissions analysis if the MPO in consultation with other agencies (see subparagraph (5)(C)1.C.), the EPA, and the FHWA (in the case of a highway project) or the FTA (in the case of a transit project) concur that it has potential regional impacts for any reason. Table 3 follows:

**Table 3—Projects Exempt from Regional Emissions Analyses**

- Intersection channelization projects
- Intersection signalization projects at individual intersections
- Interchange reconfiguration projects
- Changes in vertical and horizontal alignment
- Truck size and weight inspection stations
- Bus terminals and transfer points

- (28) Traffic Signal Synchronization Projects. Traffic signal synchronization projects may be approved, funded, and implemented without satisfying the requirements of this section. However, all subsequent regional emissions analyses required by sections (18) and (19) for transportation plans, TIPs, or projects not from a conforming plan and TIP must include such regionally significant traffic signal synchronization projects.

**COMMENTS AND RESPONSES ON  
PROPOSED AMENDMENT**

**10 CSR 10-5.480**

**CONFORMITY TO STATE OR FEDERAL IMPLEMENTATION PLANS OF  
TRANSPORTATION PLANS, PROGRAMS, AND PROJECTS DEVELOPED, FUNDED  
OR APPROVED UNDER TITLE 23 U.S.C. OR THE FEDERAL TRANSIT LAWS**

**AND**

**RECOMMENDATION FOR ADOPTION**

On June 30, 2005, the Missouri Air Conservation Commission held a public hearing concerning the proposed amendment to 10 CSR 10-5.480 Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws. The following is a summary of comments received and the Missouri Department of Natural Resources' Air Pollution Control Program corresponding responses. Any changes to the proposed amendment are identified in the responses to the comments.

The Missouri Department of Natural Resources' Air Pollution Control Program recommends the commission adopt the rule action as revised.

*NOTE 1 - Legend for rule actions to be voted on is as follows:*

- \* Shaded Text - Rule sections or subsections unchanged from Public Hearing. This text is only for reference.*
- \* Unshaded Text - Rule sections or subsections that are changed from the proposed text presented at the Public Hearing, as a result of comments received during the public comment period.*

*NOTE 2 - All unshaded text below this line will be printed in the Missouri Register.*

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**Title 10 - DEPARTMENT OF  
NATURAL RESOURCES**

**Division 10 - Air Conservation Commission**

**Chapter 5 – Air Quality Standards and Air Pollution Control Rules Specific to the  
St. Louis Metropolitan Area**

## ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission amends a rule as follows:

10 CSR 10-5.480 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 2, 2005, (30 MoReg 817-838). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** The Missouri Department of Natural Resources' Air Pollution Control Program received comments from the Missouri Department of Transportation (MODOT) and the U.S. Environmental Protection Agency (EPA).

**COMMENT:** MODOT commented that throughout the rule the Federal Transit Administration Code is referred to as the Federal Transit Laws. MODOT advised that it should be revised to read Title 49 U.S.C.

**RESPONSE AND EXPLANATION OF CHANGE:** The department's Air Pollution Control Program has made the proposed reference change throughout the rule.

**COMMENT:** MODOT commented that the rule title is rather unwieldy and wordy in length and suggested revising it to reflect the metropolitan area and subject matter with more brevity for clarification.

**RESPONSE AND EXPLANATION OF CHANGE:** The department's Air Pollution Control Program has revised the rule title as suggested.

**COMMENT:** EPA suggested that in subsection (2)(C) of the rule that the *Code of Federal Regulations* references sec. 93.114 and sec. 93.114(b) be revised to section (14) and subsection (14)(B) for consistency as the *Code of Federal Regulations* references and the references within the rule are identically worded.

**RESPONSE AND EXPLANATION OF CHANGE:** The department's Air Pollution Control Program has made the recommended reference revision.

**COMMENT:** EPA suggested that in original section (22) Procedures for Determining Localized CO and PM<sub>10</sub> Concentrations (Hot-Spot Analysis) should have the PM<sub>10</sub> hot-spot analysis procedures added to the section to make the State Implementation Plan consistent with Federal rules.

**RESPONSE AND EXPLANATION OF CHANGE:** The department's Air Pollution Control Program has made the recommended procedures addition to the rule section.

### **10 CSR 10-5.480 St. Louis Area Transportation Conformity Requirements**

(1) Definitions.



(A) Terms used but not defined in this rule shall have the meaning given them by the Clean Air Act (CAA), Titles 23 and 49 *United States Code* (U.S.C.), other United States Environmental Protection Agency (EPA) regulations, other United States Department of Transportation (DOT) regulations, or other state or local air quality or transportation rules, in that order of priority. Definitions for some terms used in this rule may be found in 10 CSR 10-6.020.

(B) Additional definitions specific to this rule are as follows:

1. One (1)-hour ozone National Ambient Air Quality Standard (NAAQS)—the one (1)-hour ozone national ambient air quality standard codified at 40 CFR 50.9;
2. Eight (8)-hour ozone National Ambient Air Quality Standard (NAAQS)—the eight (8)-hour ozone national ambient air quality standard codified at 40 CFR 50.10;
3. Applicable implementation plan— defined in section 302(q) of the CAA, the portion (or portions) of the state implementation plan for ozone or carbon monoxide (CO), or most recent revision thereof, which has been approved under section 110, or promulgated under section 110(c), or promulgated or approved pursuant to regulations promulgated under section 301(d) and which implements the relevant requirements of the CAA;
4. CAA—the Clean Air Act, as amended (42 U.S.C. 7401 et seq.);
5. Cause or contribute to a new violation for a project—
  - A. To cause or contribute to a new violation of a standard in the area substantially affected by the project or over a region which would otherwise not be in violation of the standard during the future period in question, if the project were not implemented; or
  - B. To contribute to a new violation in a manner that would increase the frequency or severity of a new violation of a standard in such area;
6. Clean data—air quality monitoring data determined by EPA to meet the requirements of 40 *Code of Federal Regulations* (CFR) part 58 that indicate attainment of the national ambient quality standard;
7. Consultation—in the transportation conformity process, one (1) party confers with another identified party, provides all information to that party needed for meaningful input, and considers the views of that party and responds to those views in a timely, substantive written manner prior to any final decision on such action. Such views and written response shall be made part of the record of any decision or action;
8. Control strategy implementation plan revision—the implementation plan which contains specific strategies for controlling the emissions of and reducing ambient levels of pollutants in order to satisfy CAA requirements for demonstrations of reasonable further progress and

attainment (including implementation plan revisions submitted to satisfy CAA sections 172(c), 182(b)(1), 182(c)(2)(A), 182(c)(2)(B), 187(a)(7), 187(g), 189(a)(1)(B), 189(b)(1)(A), and 189(d); sections 192(a) and 192(b), for nitrogen dioxide; and any other applicable CAA provision requiring a demonstration of reasonable further progress or attainment);

9. Design concept—the type of facility identified by the project, e.g., freeway, expressway, arterial highway, grade-separated highway, reserved right-of-way rail transit, mixed traffic rail transit, exclusive busway, etc.;
10. Design scope—the design aspects which will affect the proposed facility's impact on regional emissions, usually as they relate to vehicle or person carrying capacity and control, e.g., number of lanes or tracks to be constructed or added, length of project, signalization, access control including approximate number and location of interchanges, preferential treatment for high-occupancy vehicles, etc.;
11. Donut areas—geographic areas outside a metropolitan planning area boundary, but inside the boundary of a nonattainment or maintenance area that contains any part of a metropolitan area(s). These areas are not isolated rural nonattainment and maintenance areas;
12. DOT—the United States Department of Transportation;
13. EPA—the Environmental Protection Agency;
14. FHWA—the Federal Highway Administration of DOT;
15. FHWA/FTA project—for the purpose of this rule, any highway or transit project which is proposed to receive funding assistance and approval through the Federal-Aid Highway program or the Federal mass transit program, or requires Federal Highway Administration (FHWA) or Federal Transit Administration (FTA) approval for some aspect of the project, such as connection to an interstate highway or deviation from applicable design standards on the interstate system;
16. Forecast period—with respect to a transportation plan, the period covered by the transportation plan pursuant to 23 CFR part 450;
17. FTA—the Federal Transit Administration of DOT;
18. Highway project—an undertaking to implement or modify a highway facility or highway-related program. Such an undertaking consists of all required phases necessary for implementation. For analytical purposes, it must be defined sufficiently to—
  - A. Connect logical *termini* and be of sufficient length to address environmental matters on a broad scope;
  - B. Have independent utility or significance, i.e., be usable and be a reasonable expenditure even if no additional transportation improvements in the area are made; and

- C. Not restrict consideration of alternatives for other reasonably foreseeable transportation improvements;
19. Horizon year—a year for which the transportation plan describes the envisioned transportation system according to section (6) of this rule;
  20. Hot-spot analysis—an estimation of likely future localized carbon monoxide (CO) and particulate matter (PM<sub>10</sub>) pollutant concentrations and a comparison of those concentrations to the national ambient air quality standard(s). Hot-spot analysis assesses impacts on a scale smaller than the entire nonattainment or maintenance area, including, for example, congested roadway intersections and highways or transit terminals, and uses an air quality dispersion model to determine the effects of emissions on air quality;
  21. Increase the frequency or severity—to cause a location or region to exceed a standard more often or to cause a violation at a greater concentration than previously existed and/or would otherwise exist during the future period in question, if the project were not implemented;
  22. Isolated rural nonattainment and maintenance areas—areas that do not contain or are not part of any metropolitan planning area as designated under the transportation planning regulations. Isolated rural areas do not have federally required metropolitan transportation plans or transportation improvement program (TIPs) and do not have projects that are part of the emissions analysis of any metropolitan planning organization's (MPO's) metropolitan transportation plan or TIP. Projects in such areas are instead included in statewide transportation improvement programs. These areas are not donut areas;
  23. Lapse—the conformity determination for a transportation plan or transportation improvement program (TIP) has expired, and thus there is no currently conforming transportation plan and [transportation improvement program (TIP)];
  24. Limited maintenance plan—a maintenance plan that EPA has determined meets EPA's limited maintenance plan policy criteria for a given NAAQS and pollutant. To qualify for a limited maintenance plan, for example, an area must have a design value that is significantly below a given NAAQS, and it must be reasonable to expect that a NAAQS violation will not result from any level of future motor vehicle emissions growth;
  25. Maintenance area—any geographic region of the United States previously designated nonattainment pursuant to the CAA Amendments of 1990 and subsequently redesignated to attainment subject to the requirement to develop a maintenance plan under section 175A of the CAA, as amended;

26. Maintenance plan—an implementation plan under section 175A of the CAA, as amended;
27. Metropolitan planning area—the geographic area in which the metropolitan transportation planning process required by 23 U.S.C. 134 and section 8 of the Federal Transit Act must be carried out;
28. Metropolitan planning organization (MPO)—that organization designated as being responsible, together with the state, for conducting the continuing, cooperative, and comprehensive planning process under 23 U.S.C. 134 and 49 U.S.C. 5303. It is the forum for cooperative transportation decision-making. The East-West Gateway Council of Governments is the MPO for the St. Louis metropolitan area and the organization responsible for conducting the planning required under section 174 of the CAA;
29. Milestone—the meaning given in CAA sections 182(g)(1) and 189(c) for serious and above ozone nonattainment areas and PM<sub>10</sub> nonattainment areas, respectively. For all other nonattainment areas, a milestone consists of an emissions level and the date on which that level is to be achieved as required by the applicable CAA provision for reasonable further progress towards attainment;
30. Motor vehicle emissions budget— that portion of the total allowable emissions defined in the submitted or approved control strategy implementation plan revision or maintenance plan for a certain date for the purpose of meeting reasonable further progress milestones or demonstrating attainment or maintenance of the National Ambient Air Quality Standards (NAAQS), for any criteria pollutant or its precursors, allocated to highway and transit vehicle use and emissions. For purposes of meeting the conformity test required under sections (18) and/or (19) of this rule, the motor vehicle emissions budget in the applicable Missouri State Implementation Plan shall be combined with the motor vehicle emissions budget for the same pollutant in the applicable Illinois State Implementation Plan;
31. National ambient air quality standards (NAAQS)—those standards established pursuant to section 109 of the CAA;
32. NEPA—the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.);
33. NEPA process completion—for the purposes of this rule, with respect to FHWA or FTA, the point at which there is a specific action to make a determination that a project is categorically excluded, to make a Finding of No Significant Impact, or to issue a record of decision on a Final Environmental Impact Statement under NEPA;
34. Nonattainment area—any geographic region of the United States which has been designated as nonattainment under section 107 of

- the CAA for any pollutant for which a national ambient air quality standard exists;
35. Not classified area—any carbon monoxide (CO) nonattainment area which EPA has not classified as either moderate or serious;
  36. Project—a highway project or transit project;
  37. Protective finding—a determination by EPA that a submitted control strategy implementation plan revision contains adopted control measures or written commitments to adopt enforceable control measures that fully satisfy the emissions reductions requirements to the statutory provision for which the implementation plan revision was submitted, such as reasonable further progress or attainment;
  38. Recipient of funds designated under Title 23 U.S.C. or Title 49 U.S.C.—any agency at any level of state, county, city, or regional government that routinely receives Title 23 U.S.C. or Federal Transit Laws funds to construct FHWA/FTA projects, operate FHWA/FTA projects or equipment, purchase equipment, or undertake other services or operations via contracts or agreements. This definition does not include private landowners or developers, or contractors or entities that are only paid for services or products created by their own employees;
  39. Regionally significant project—a transportation project (other than an exempt project) that is on a facility which serves regional transportation needs (such as access to and from the area outside of the region, major activity centers in the region, major planned developments such as new retail malls, sports complexes, etc., or transportation terminals, as well as most terminals themselves) and would normally be included in the modeling of a metropolitan area's transportation network, including at a minimum: all principal arterial highways and all fixed guideway transit facilities that offer an alternative to regional highway travel;
  40. Safety margin—the amount by which the total projected emissions from all sources of a given pollutant are less than the total emissions that would satisfy the applicable requirement for reasonable further progress, attainment, or maintenance;
  41. Standard—a national ambient air quality standard;
  42. Statewide transportation improvement program (STIP)—a staged, multiyear, intermodal program of transportation projects which is consistent with the statewide transportation plan and planning processes and metropolitan transportation plans, TIPs and processes, developed pursuant to 23 CFR part 450;
  43. Statewide transportation plan—the official statewide, intermodal transportation plan that is developed through the statewide transportation planning process, pursuant to 23 CFR part 450;

- 44. Transit—mass transportation by bus, rail, or other conveyance which provides general or special service to the public on a regular and continuing basis. It does not include school buses or charter or sightseeing services;
- 45. Transit project—an undertaking to implement or modify a transit facility or transit-related program; purchase transit vehicles or equipment; or provide financial assistance for transit operations. It does not include actions that are solely within the jurisdiction of local transit agencies, such as changes in routes, schedules, or fares. It may consist of several phases. For analytical purposes, it must be defined inclusively enough to—
  - A. Connect logical *termini* and be of sufficient length to address environmental matters on a broad scope;
  - B. Have independent utility or independent significance, i.e., be a reasonable expenditure even if no additional transportation improvements in the area are made; and
  - C. Not restrict consideration of alternatives for other reasonably foreseeable transportation improvements;
- 46. Transportation control measure (TCM)—any measure that is specifically identified and committed to in the applicable implementation plan that is either one (1) of the types listed in section 108 of the CAA, or any other measure for the purpose of reducing emissions or concentrations of air pollutants from transportation sources by reducing vehicle use or changing traffic flow or congestion conditions. Notwithstanding the first sentence of this definition, vehicle technology-based, fuel-based, and maintenance-based measures which control the emissions from vehicles under fixed traffic conditions are not TCMs for the purposes of this rule;
- 47. Transportation improvement program (TIP)—a staged, multiyear, intermodal program of transportation projects covering a metropolitan planning area which is consistent with the metropolitan transportation plan, and developed pursuant to 23 CFR part 450;
- 48. Transportation plan—the official intermodal metropolitan transportation plan that is developed through the metropolitan planning process for the metropolitan planning area, developed pursuant to 23 CFR part 450;
- 49. Transportation project—a highway project or a transit project; and
- 50. Written commitment—for the purposes of this rule, a written commitment that includes a description of the action to be taken; a schedule for the completion of the action; a demonstration that funding necessary to implement the action has been authorized by the appropriating or authorizing body; and an acknowledgement

that the commitment is an enforceable obligation under the applicable implementation plan.

(2) Applicability.

(A) Action Applicability.

1. Except as provided for in subsection (2)(C) or section (26), conformity determinations are required for—
  - A. The adoption, acceptance, approval or support of transportation plans and transportation plan amendments developed pursuant to 23 CFR part 450 or 49 CFR part 613 by a MPO or DOT;
  - B. The adoption, acceptance, approval or support of TIPs and TIP amendments developed pursuant to 23 CFR part 450 or 49 CFR part 613 by a MPO or DOT; and
  - C. The approval, funding, or implementation of FHWA/FTA projects.
2. Conformity determinations are not required under this rule for individual projects which are not FHWA/FTA projects. However, section (21) applies to such projects if they are regionally significant.

(B) Geographic Applicability. The provisions of this rule shall apply in the Franklin, Jefferson, St. Charles and St. Louis Counties and the City of St. Louis nonattainment area for transportation-related criteria pollutants for which the area is designated nonattainment.

1. The provisions of this rule apply with respect to the emissions of the following criteria pollutants: ozone, carbon monoxide (CO) (The provisions of this rule shall apply in St. Louis City and that portion of St. Louis County extending north, south and west from the St. Louis City/County boundary to Interstate 270 for CO emissions), nitrogen dioxide (NO<sub>2</sub>), particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM<sub>10</sub>); and particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers (PM<sub>2.5</sub>).
2. The provisions of this rule also apply with respect to emissions of the following precursor pollutants:
  - A. Volatile organic compounds (VOC) and nitrogen oxides (NO<sub>x</sub>) in ozone areas;
  - B. NO<sub>x</sub> in NO<sub>2</sub> areas; and
  - C. VOC and/or NO<sub>x</sub> in PM<sub>10</sub> areas if the EPA regional administrator or the director of the state air agency has made a finding that transportation-related emissions of one (1) or both of these precursors within the nonattainment area are a significant contributor to the PM<sub>10</sub> nonattainment problem and has so notified the MPO and DOT, or if applicable implementation plan (or implementation plan submission)

establishes an approved (or adequate) budget for such emissions as part of the reasonable further progress, attainment or maintenance strategy.

3. The provisions of this rule apply to PM<sub>2.5</sub> nonattainment and maintenance areas with respect to PM<sub>2.5</sub> from re-entrained road dust if the EPA regional administrator or the director of the state air agency has made a finding that re-entrained road dust emissions within the area are a significant contributor to the PM<sub>2.5</sub> nonattainment problem and has so notified the MPO and DOT, or if the applicable implementation plan (or implementation plan submission) includes re-entrained road dust in the approved (or adequate) budget as part of the reasonable further progress, attainment or maintenance strategy. Re-entrained road dust emissions are produced by travel on paved and unpaved roads (including emissions from anti-skid and deicing materials).
4. The provisions of this rule apply to the Franklin, Jefferson, St. Charles and St. Louis Counties and the City of St. Louis nonattainment area for twenty (20) years from the date EPA approves the area's request under section 107(d) of the CAA for redesignation to attainment, unless the applicable implementation plan specifies that the provisions of this rule shall apply for more than twenty (20) years.

(C) Limitations. In order to receive any FHWA/FTA approval or funding actions, including NEPA approvals, for a project phase subject to this subpart, a currently conforming transportation plan and TIP must be in place at the time of project approval as described in section (14), except as provided by subsection (14)(B).

1. Projects subject to this rule for which the NEPA process and a conformity determination have been completed by DOT may proceed toward implementation without further conformity determinations unless more than three (3) years have elapsed since the most recent major step (NEPA process completion; start of final design; acquisition of a significant portion of the right-of-way; or approval of the plans, specifications and estimates) occurred. All phases of such projects which were considered in the conformity determination are also included, if those phases were for the purpose of funding final design, right-of-way acquisition, construction, or any combination of these phases.
2. A new conformity determination for the project will be required if there is a significant change in project design concept and scope, if a supplemental environmental document for air quality purposes is initiated, or if three (3) years have elapsed since the most recent major step to advance the project occurred.

(D) Grace period for new nonattainment areas. For areas or portions of areas which have been continuously designated attainment or not designated for



any NAAQS for ozone, CO, PM<sub>10</sub>, PM<sub>2.5</sub> or NO<sub>2</sub> since 1990 and are subsequently redesignated to nonattainment or designated nonattainment for any NAAQS for any of these pollutants, the provisions of this rule shall not apply with respect to that NAAQS for twelve (12) months following the effective date of final designation to nonattainment for each NAAQS for such pollutant.

- (3) **Priority.** When assisting or approving any action with air quality-related consequences, FHWA and FTA shall give priority to the implementation of those transportation portions of an applicable implementation plan prepared to attain and maintain the NAAQS. This priority shall be consistent with statutory requirements for allocation of funds among states or other jurisdictions.
- (4) **Frequency of Conformity Determinations.**
  - (A) Conformity determinations and conformity redeterminations for transportation plans, TIPs, and FHWA/FTA projects must be made according to the requirements of this section and the applicable implementation plan.
  - (B) **Frequency of Conformity Determinations for Transportation Plans.**
    - 1. Each new transportation plan must be demonstrated to conform before the transportation plan is approved by the MPO or accepted by DOT.
    - 2. All transportation plan revisions must be found to conform before the transportation plan revisions are approved by the MPO or accepted by DOT, unless the revision merely adds or deletes exempt projects listed in sections (26) and (27) and has been made in accordance with the notification provisions of subparagraph (5)(C)1.E. of this rule. The conformity determination must be based on the transportation plan and the revision taken as a whole.
    - 3. The MPO and DOT must determine the conformity of the transportation plan (including a new regional emissions analysis) no less frequently than every three (3) years. If more than three (3) years elapse after DOT's conformity determination without the MPO and DOT determining conformity of the transportation plan, the existing conformity determination will lapse.
  - (C) **Frequency of Conformity Determinations for Transportation Improvement Programs.**
    - 1. A new TIP must be demonstrated to conform before the TIP is approved by the MPO or accepted by DOT. The conformity determination must be completed in accordance with paragraph (5)(A)1. of this rule.
    - 2. A TIP amendment requires a new conformity determination for the entire TIP before the amendment is approved by the MPO or accepted by DOT, unless the amendment merely adds or deletes exempt projects listed in section (26) or section (27) and has been made in accordance with the notification provisions of

subparagraph (5)(C)1.E. of this rule. Any new conformity determination for a TIP amendment must be completed in accordance with paragraph (5)(A)1. of this rule.

3. The MPO and DOT must determine the conformity of the TIP (including a new regional emissions analysis) no less frequently than every three (3) years. If more than three (3) years elapse after DOT's conformity determination without the MPO and DOT determining conformity of the TIP, the existing conformity determination will lapse.

(D) Projects. FHWA/FTA projects must be found to conform before they are adopted, accepted, approved, or funded. Conformity must be redetermined for any FHWA/FTA project if one (1) of the following occurs: a significant change in the project's design concept and scope; three (3) years elapsed since the most recent major step to advance the project; or initiation of a supplemental environmental document for air quality purposes. Major steps include NEPA process completion; start of final design; acquisition of a significant portion of the right-of-way; and, construction (including federal approval of plans, specifications and estimates).

(E) Triggers for Transportation Plan and TIP Conformity Determinations. Conformity of existing transportation plans and TIPs must be redetermined within eighteen (18) months of the following, or the existing conformity determination will lapse, and no new project-level conformity determinations may be made until conformity of the transportation plan and TIP has been determined by the MPO and DOT—

1. The effective date of EPA's finding that motor vehicle emissions budgets from an initially submitted control strategy implementation plan or maintenance plan are adequate pursuant to subsection (18)(E) and can be used for transportation conformity purposes;
2. The effective date of EPA approval of a control strategy implementation plan revision or maintenance plan which establishes or revises a motor vehicle emissions budget if that budget has not yet been used in a conformity determination prior to approval; and
3. The effective date of EPA promulgation of an implementation plan which establishes or revises a motor vehicle budget.

(5) Consultation.

(A) General. Procedures for interagency consultation (federal, state and local), resolution of conflicts, and public consultation are described in subsections (A) through (F) of this section. Public consultation procedures meet the requirements for public involvement in 23 CFR part 450.

1. The implementation plan revision required shall include procedures for interagency consultation (federal, state, and local), resolution of conflicts, and public consultation as described in subsections (A) through (E) of this section. Public consultation procedures will be

developed in accordance with the requirements for public involvement in 23 CFR part 450.

2. MPOs and state departments of transportation will provide reasonable opportunity for consultation with state air agencies, local air quality and transportation agencies, DOT, and EPA, including consultation on the issues described in paragraph (C)1. of this section, before making conformity determinations.

(B) Interagency Consultation Procedures—General Factors.

1. Representatives of the MPO, state and local air quality planning agencies, state and local transportation agencies shall undertake an interagency consultation process in accordance with this section with each other and with local or regional offices of the EPA, FHWA and FTA on the development of the implementation plan, the list of TCMs in the applicable implementation plan, the unified planning work program under 23 CFR section 450.314, the transportation plan, the TIP, and any revisions to the preceding documents.
2. The state air quality agency shall be the lead agency responsible for preparing the final document or decision and for assuring the adequacy of the interagency consultation process as required by this section with respect to the development of the applicable implementation plans and control strategy implementation plan revisions and the list of TCMs in the applicable implementation plan. The MPO shall be the lead agency responsible for preparing the final document or decision and for assuring the adequacy of the interagency consultation process as required by this section with respect to the development of the unified planning work program under 23 CFR section 450.314, the transportation plan, the TIP, and any amendments or revisions thereto. The MPO shall also be the lead agency responsible for preparing the final document or decision and for assuring the adequacy of the interagency consultation process as required by this section with respect to any determinations of conformity under this rule for which the MPO is responsible.
3. In addition to the lead agencies identified in paragraph (5)(B)2., other agencies entitled to participate in any interagency consultation process under this rule include:
  - A. The Illinois Department of Transportation, the Missouri Department of Transportation, the Federal Highway Administration, the Federal Transit Administration, the U.S. Environmental Protection Agency, the Illinois Environmental Protection Agency and the Missouri Department of Natural Resources;
  - B. Local transportation agencies through the appointment of one (1) representative from local transportation agency

interests on the Illinois side of the St. Louis area and the appointment of one (1) representative from local transportation agency interests on the Missouri side of the St. Louis area. The MPO and the Illinois Department of Transportation shall jointly appoint the Illinois representative, and the MPO and Missouri Department of Transportation shall jointly appoint the Missouri representative;

- C. Local air quality agencies through the appointment of one (1) representative from each of the two (2) local air quality agencies. The MPO and the Missouri Department of Natural Resources shall jointly appoint the local air quality agency representatives; and
- D. Local mass transit agencies through the appointment of one (1) representative from local mass transit agency interests on the Illinois side of the St. Louis area and the appointment of one (1) representative from local mass transit agency interests on the Missouri side of the St. Louis area. The MPO and the Illinois Department of Transportation shall jointly appoint the Illinois representative, and the MPO and Missouri Department of Transportation shall jointly appoint the Missouri representative;
- E. Nothing in this paragraph shall preclude the authority of the lead agency listed in paragraph (5)(B)2. to involve additional agencies in the consultation process which are directly impacted by any project or action subject to this rule;
- F. Representatives appointed under subparagraphs (5)(B)3.B., C., D., or E. shall not come from an agency already represented as a consulting agency under this section.

4. It shall be the responsibility of the appropriate lead agency designated in paragraph (5)(B)2. to solicit early and continuing input from all other consulting agencies, to provide those agencies with all relevant information needed for meaningful input and, where appropriate, to assure policy-level contact with those agencies. The lead agency shall, at a minimum, provide opportunities for discussion and comment in accordance with the interagency consultation procedures detailed in this section. The lead agency shall consider the views of each other consulting agency prior to making a final decision, shall respond in writing to those views and shall assure that such views and response (or where appropriate a summary thereof) are made part of the record of any decision or action.

5. It shall be the responsibility of each agency listed in paragraph (5)(B)3. (other than the lead agency designated under paragraph

- (5)(B)2.) to confer with the lead agency and the other participants in the consultation process, to review and make relevant comment on all proposed and final documents and decisions in a timely manner and to attend consultation and decision meetings. To the extent requested by the lead agency or other agencies involved, or as required by other provisions of this rule, each agency shall provide timely input on any area of substantive expertise or responsibility (including planning assumptions, modeling, information on status of TCM implementation, and interpretation of regulatory or other requirements), and shall comply with any reasonable request to render such technical assistance to the lead agency as may be needed to support the development of the document or decision.
6. For documents or decisions subject to this rule for which the MPO is the designated lead agency, the MPO shall, through the regular meetings of its board of directors and committees, be the primary forum for discussion at the policy level. The MPO shall ensure that all consulting agencies are provided with opportunity to participate throughout the decision-making process including the early planning stages. The MPO shall modify or supplement its normal schedule of meetings, if needed, to provide adequate opportunity for discussion of the matters subject to this rule.
7. It shall be the responsibility of the lead agency designated under paragraph (5)(B)2. to initiate the consultation process by notifying other consulting agencies of the following:
- A. The decision(s) or document(s) for which consultation is being undertaken; and
  - B. The proposed planning or programming process for the development of the decision(s) or document(s). The proposed planning or programming process shall include at a minimum:
    - (I) The roles and responsibilities of each agency at each stage in the planning process, including technical as well as policy aspects;
    - (II) The organizational level of regular consultation;
    - (III) The proposed schedule of, or process for convening, consultation meetings, including the process and assignment of responsibilities for selecting a chairperson and setting meeting agendas;
    - (IV) The process for circulating or otherwise making available all relevant materials in a timely fashion at each stage in the consultation process, and in particular for circulating or otherwise making available drafts of proposed documents or decisions before formal adoption or publication;

- (V) The process and assignment of responsibility for maintaining an adequate record of the consultation process; and
    - (VI) The process for responding to the significant comments of involved agencies;
  - C. The consultation planning and programming process to be followed for each document or decision subject to this rule shall be determined by consensus among the consulting agencies and shall thereafter be binding on all parties until such time as it may be revised by consensus among the consulting agencies.
- 8. All drafts and supporting materials subject to consultation shall be provided at such level of detail as each consulting agency may need to determine its response. Any consulting agency may request, and the appropriate lead agency shall supply, supplemental information as is reasonably available for the consulting agency to determine its response.
- 9. The time allowed at each stage in the consultation process shall not be less than that specified by regulation or this rule, published by the lead agency in any document describing the consultation procedures to be followed under 23 CFR part 450, 40 CFR part 51 or this rule, or otherwise previously agreed by consensus of the consulting agencies. Where no such time has been specified, published or agreed to, the time shall be determined by consensus of the consulting agencies based upon the amount of material subject to consultation, the extent of prior informal or technical consultation and discussion, the nature of the decision to be made, and such other factors as are previously agreed by the consulting agencies. The time allowed for consultation shall be the same for all agencies being consulted, and any extension of time granted to one (1) agency shall also be allowed all other agencies.
- 10. Determining the adequacy of consultation opportunities.
  - A. Representatives of the consulting agencies listed in paragraph (5)(B)3. shall meet once each calendar year for the purpose of reviewing the sequence and adequacy of the consultation planning and programming processes established or proposed under paragraph (5)(B)7. for each type of document or decision. Responsibility for convening this meeting shall rest with the appropriate lead agency designated in paragraph (5)(B)2.
  - B. In any year (other than the first after the adoption of this rule) in which there is an agreed upon consultation planning or programming process in effect and no consulting agency has requested any change to that process, the appropriate lead agency may propose that this process remain in effect.

Upon notification of acceptance of this proposal by all consulting agencies, no further action by the lead agency shall be required and the meeting and review required under subparagraph (5)(B)10.A. need not take place for that year.

11. The consultation planning and programming processes proposed and agreed to under paragraph (5)(B)7. shall comply with the following general principles:
  - A. Consultation shall be held early in the planning process, so as to facilitate sharing of information needed for meaningful input and to allow the consulting agencies to confer with the lead agency during the formative stages of developing any document or decision subject to this rule;
  - B. For conformity determinations for transportation plan revisions or TIPs, the consultation process shall, at a minimum, specifically include opportunities for the consulting agencies to confer upon the analysis required to make conformity determinations. This consultation shall normally take place at the technical level, except to the extent agreed by consensus under paragraph (5)(B)10., and shall take place prior to the consideration of draft documents or conformity determinations by the MPO;
  - C. For state implementation plans, the consultation process shall, at a minimum, specifically include opportunities for the consulting agencies to confer upon the motor vehicle emissions budget. This consultation shall take place at the technical and policy levels, except to the extent agreed by consensus under paragraph (5)(B)10., and shall take place prior to the consideration of the draft budget by the state air quality agency;
  - D. In addition to the requirements of subparagraphs (5)(B)11.B. and C., if TCMs are to be considered in transportation plans, TIPs or state implementation plans, specific opportunities to consult regarding TCMs by air quality and transportation agencies must be provided prior to the consideration of the TCMs by the appropriate lead agency; and
  - E. Additional consultation opportunities must be provided prior to any final action being taken by any of the lead agencies defined in paragraph (5)(B)2. on any document or decision subject to this rule. Before taking formal action to approve any plan, program, document or other decision subject to this rule, the consulting agencies shall be given an opportunity to communicate their views in writing to the lead agency. The lead agency shall consider those views and respond in writing in a timely and appropriate manner prior to any final action. Such views and written response

shall be made part of the record of the final decision or action. Opportunities for formal consulting agency comment may run concurrently with other public review time frames.

12. Consultation on planning assumptions.

- A. The MPO shall convene a meeting of the consulting agencies listed in paragraph (5)(B)3. no less frequently than once each calendar year for the purpose of reviewing the planning, transportation and air quality assumptions, and models and other technical procedures in use or proposed to be used for the state implementation plan (SIP) motor vehicle emissions inventory, motor vehicle emissions budget, and conformity determinations. This meeting shall normally take place at the technical level except to the extent agreed by consensus under paragraph (5)(B)10.
- B. In all years when it is intended to determine the conformity of a transportation plan revision or TIP, the meeting required in subparagraph (5)(B)12.A. shall be held before the MPO commences the evaluation of projects submitted or proposed for inclusion in the transportation plan revision or TIP, and before the annual public meeting held in accordance with 23 CFR section 450.322(c). The MPO shall consider the views of all consulting agencies before making a decision on the latest planning assumptions to be used for conformity determinations. The state air quality agencies shall consider the views of all consulting agencies before making a decision on the latest planning assumptions to be used for developing the SIP motor vehicle emissions inventory, motor vehicle emissions budget and for estimating the emissions reductions associated with TCMs.
- C. It shall be the responsibility of each of the consulting agencies to advise the MPO of any pending changes to their planning assumptions or methods and procedures used to estimate travel, forecast travel demand, or estimate motor vehicle emissions. Where necessary the MPO shall convene meetings, additional to that required under subparagraph (5)(B)12.A., to share information and evaluate the potential impacts of any proposed changes in planning assumptions, methods or procedures and to exchange information regarding the timetable and scope of any upcoming studies or analyses that may lead to future revision of planning assumptions, methods or procedures.
- D. Whenever a change in air quality or transportation planning assumptions, methods or procedures is proposed that may have a significant impact on the SIP motor vehicle emissions inventory, motor vehicle emissions budget or



conformity determinations, the agency proposing the change shall provide the consulting agencies an opportunity to review the basis for the proposed change. All consulting agencies shall be given at least thirty (30) days to evaluate the impact of the proposed change prior to final action by the agency proposing the change. To the fullest extent practicable, the time frame for considering and evaluating proposed changes shall be coordinated with the procedures for consultation on planning assumptions in subparagraphs (5)(B)12.A.–C.

13. A meeting that is scheduled or required for another purpose may be used for the purposes of consultation if the consultation purpose is identified in the public notice for the meeting and all consulting agencies are notified in advance of the meeting.
14. On any matter which is the subject of consultation, no consulting agency may make a final decision or move to finally approve a document subject to this rule until the expiry of the time allowed for consultation and the completion of the process notified under paragraph (5)(B)7. Notwithstanding the previous sentence, any consulting agency may make a final decision or move to finally approve a document subject to this rule if final comments on the draft document or decision have been received from all other consulting agencies. The lead agency designated under paragraph (5)(B)2. shall, in making its decision, take account of all views expressed in response to consultation.

(C) Interagency Consultation Procedures—Specific Processes. Interagency consultation procedures shall also include the following specific processes:

1. An interagency consultation process in accordance with subsection (5)(B) of this rule involving the MPO, state and local air quality planning agencies, state and local transportation agencies, the EPA and the DOT shall be undertaken for the following (except where otherwise provided, the MPO shall be responsible for initiating the consultation process):
  - A. Evaluating and choosing a model (or models) and associated methods and assumptions to be used in hot-spot analyses and regional emissions analyses;
  - B. Determining which minor arterials and other transportation projects should be considered “regionally significant” for the purposes of regional emissions analysis (in addition to those functionally classified as principal arterial or higher or fixed guideway systems or extensions that offer an alternative to regional highway travel), and which projects should be considered to have a significant change in design concept and scope from the transportation plan or TIP;

- C. Evaluating whether projects otherwise exempted from meeting the requirements of this rule under sections (26) and (27) should be treated as nonexempt in cases where potential adverse emissions impacts may exist for any reason;
- D. Making a determination, required by paragraph (13)(C)1., whether past obstacles to implementation of TCMs which are behind the schedule established in the applicable implementation plan have been identified and are being overcome, and whether state and local agencies with influence over approvals or funding for TCMs are giving maximum priority to approval or funding for TCMs over other projects within their control. This process shall also consider whether delays in TCM implementation necessitate revisions to the applicable implementation plan to remove TCMs or substitute TCMs or other emission reduction measures;
- E. Notification of transportation plan or TIP revisions or amendments which merely add or delete exempt projects listed in section (26) or section (27). In any year when it is intended to prepare a transportation plan revision, TIP or TIP amendment that merely adds or deletes exempt projects, the MPO shall notify all consulting agencies in writing within seven (7) calendar days after taking action to approve such exempt projects. The notification shall include enough information about the exempt projects for the consulting agencies to determine their agreement or disagreement that the projects are exempt under section (26) or section (27) of this rule;
- F. Determining whether a project is considered to be included in the regional emissions analysis supporting the currently conforming TIP's conformity determination, even if the project is not strictly included in the TIP for the purposes of MPO project selection or endorsement, and whether the project's design concept and scope have not changed significantly from those which were included in the regional emissions analysis, or in a manner which would significantly impact use of the facility;
- G. Advising on the horizon years to be used for conformity determinations, in accordance with section (6) of this rule;
- H. Advising whether the modeling methods and functional relationships used in the model are consistent with acceptable professional practice and are reasonable for the purposes of emission estimation, as specified in section (22) of this rule;

- I. Reviewing the models, databases and other requirements specified in section (23) of this rule and advising if there are grounds for recommending to the EPA regional administrator that these models, databases or requirements are inappropriate. In such an event, the consulting agencies shall propose alternative methods to satisfy the requirements for conformity in accordance with section (23);
  - J. Determining what forecast of vehicle miles traveled to use in establishing or tracking motor vehicle emissions budgets, developing transportation plans, TIPs or applicable implementation plans, or in making conformity determinations;
  - K. Determining whether the project sponsor or the MPO has demonstrated that the requirements of sections (16)–(19) are satisfied without a particular mitigation or control measure, as provided in section (25);
  - L. Developing a list of TCMs to be included in the applicable implementation plan;
  - M. Identifying, as required by subsection (23)(B), projects located at sites in PM<sub>10</sub> nonattainment areas which have vehicle and roadway emission and dispersion characteristics which are essentially identical to those at sites which have violations verified by monitoring, and therefore require quantitative PM<sub>10</sub> hot-spot analysis; and
  - N. Choosing conformity tests and methodologies for isolated rural nonattainment and maintenance areas, as required by paragraph (9)(L)2;
2. An interagency consultation process in accordance with subsection (5)(B) involving the MPO, state and local air quality planning agencies and state and local transportation agencies for the following (except where otherwise provided, the MPO shall be responsible for initiating the consultation process):
- A. Evaluating events which will trigger new conformity determinations in addition to those triggering events established in section (4). Any of the consulting agencies listed in paragraph (5)(B)3. may request that the MPO initiate the interagency consultation process to evaluate an event which should, in the opinion of the consulting agency, trigger a need for a conformity determination. The MPO shall initiate appropriate consultation with the other consulting agencies in response to such request, and shall notify the consulting agencies and the requesting agency in writing of its proposed action in response to this evaluation and consultation; and

- B. Consulting on the procedures to be followed in performing emissions analysis for transportation activities which cross the borders of the MPO's region or the St. Louis nonattainment area or air basin;
3. Consultation on nonfederal projects.
- A. An interagency consultation process in accordance with subsection (5)(B) involving the MPO, state and local air quality agencies and state and local transportation agencies shall be undertaken to ensure that plans for construction of regionally significant projects which are not FHWA/FTA projects (including projects for which alternative locations, design concept and scope, or the no-build option are still being considered), including all those by recipients of funds designated under 23 U.S.C. or Title 49 U.S.C., are disclosed to the MPO on a regular basis, and to assure that any changes to those plans are immediately disclosed.
  - B. Notwithstanding the provisions of subparagraph (5)(C)3.A., it shall be the responsibility of the sponsor of any such regionally significant project, and of any agency that becomes aware of any such project through applications for approval, permitting or funding, to disclose such project to the MPO in a timely manner. Such disclosure shall be made not later than the first occasion on which any of the following actions is sought: any policy board action necessary for the project to proceed, the issuance of administrative permits for the facility or for construction of the facility, the execution of a contract to design or construct the facility, the execution of any indebtedness for the facility, any final action of a board, commission or administrator authorizing or directing employees to proceed with design, permitting or construction of the project, or the execution of any contract to design or construct or any approval needed for any facility that is dependent on the completion of the regionally significant project.
  - C. Any such regionally significant project that has not been disclosed to the MPO in a timely manner shall be deemed not to be included in the regional emissions analysis supporting the conformity determination for the TIP and shall not be consistent with the motor vehicle emissions budget in the applicable implementation plan, for the purposes of section (21) of this rule.
  - D. For the purposes of this section and of section (21) of this rule, the phrase adopt or approve of a regionally significant project means the first time any action necessary to authorizing a project occurs, such as any policy board action

necessary for the project to proceed, the issuance of administrative permits for the facility or for construction of the facility, the execution of a contract to construct the facility, any final action of a board, commission or administrator authorizing or directing employees to proceed with construction of the project, or any written decision or authorization from the MPO that the project may be adopted or approved;

4. This interagency consultation process involving the agencies specified in paragraph (5)(B)3. shall be undertaken for assuming the location and design concept and scope of projects which are disclosed to the MPO as required by paragraph (5)(C)3. but whose sponsors have not yet decided these features in sufficient detail to perform the regional emissions analysis according to the requirements of section (22) of this rule. This process shall be initiated by the MPO;
5. The MPO shall undertake an on-going process of consultation with the agencies listed in paragraph (5)(B)3. for the design, schedule, and funding of research and data collection efforts and regional transportation model development by the MPO. This process shall, as far as practicable, be integrated with the cooperative development of the Unified Planning Work Program under 23 CFR section 450.314; and
6. This process insures providing final documents (including applicable implementation plans and implementation plan revisions) and supporting information to each agency after approval or adoption. This process is applicable to all agencies described in paragraph (A)1. of this section, including federal agencies.

(D) Record Keeping and Distribution of Final Documents.

1. It shall be the responsibility of the lead agency designated under paragraph (5)(B)2. to maintain a complete and accurate record of all agreements, planning and programming processes, and consultation activities required under this rule and to make these documents available for public inspection upon request.
2. It shall be the affirmative responsibilities of the lead agency designed under paragraph (5)(B)2. to provide to the other consulting agencies copies of any final document or final decision subject to this rule within thirty (30) days of final action by the lead agency.

(E) Resolving Conflicts.

1. Conflicts among state agencies or between state agencies and the MPO regarding a final action on any conformity determination subject to this rule shall be escalated to the governor if the conflict cannot be resolved by the heads of the involved agencies. Such agencies shall make every effort to resolve any differences,

including personal meetings between the heads of such agencies or their policy-level representatives, to the extent possible.

2. It shall be the responsibility of the state air quality agency to provide timely notification to the MPO and other consulting agencies of any proposed conformity determination where the agency identifies a potential conflict which, if unresolved, would, in the opinion of the agency, justify escalation to the governor. To the extent that consultation is not otherwise required under this rule, the state air quality agency shall consult with the other agencies listed in paragraph (5)(B)3. in advance of escalating a potential conflict to the governor, and, if necessary, shall convene the meetings required under paragraph (5)(E)1. of this rule.
3. When the MPO intends to make a final determination of conformity for a transportation plan, plan revision, TIP or TIP amendment, the MPO shall first notify the director of the state air quality agency of its intention and include in that notification a written response to any comments submitted by the state air quality agency on the proposed conformity determination. Upon receipt of such notification (including the written response to any comments submitted by the state air quality agency), the state air quality agency shall have fourteen (14) calendar days in which to appeal a proposed determination of conformity to the governor. If the Missouri air quality agency appeals to the governor of Missouri, the final conformity determination will automatically become contingent upon concurrence of the governor of Missouri. If the Illinois air quality agency presents an appeal to the governor of Missouri regarding a conflict involving both Illinois and Missouri agencies or the MPO, the final conformity determination will automatically become contingent upon concurrence of both the governor of Missouri and the governor of Illinois. The state air quality agency shall provide notice of any appeal under this subsection to the MPO, the state transportation agency and the Illinois air quality agency. If neither state air quality agency appeals to the governor(s) within fourteen (14) days of receiving written notification, the MPO may proceed with the final conformity determination.
4. The governor may delegate the role of hearing any such appeal under this subsection and of deciding whether to concur in the conformity determination to another official or agency within the state, but not to the head or staff of the state air quality agency or any local air quality agency, the state department of transportation, a state transportation commission or board, any agency that has responsibility for only one (1) of these functions, or an MPO.

(F) Interagency Consultation Procedures— Public Involvement.

1. The MPO shall establish and implement a proactive public involvement process which provides opportunity for public review and comment prior to taking formal action on a conformity determination for a transportation plan revision or a TIP. This process shall be consistent with the requirements of 23 CFR part 450, including sections 450.316(b)(1), 450.322(c) and 450.324(c).
2. The public involvement process may be fully integrated with the public involvement process for transportation plans and TIPs publicized under 23 CFR section 450.316(b)(1)(i) or may be established independently. In the case of an independent procedure, there shall be a minimum public comment period of forty-five (45) days before the public involvement process is initially adopted or revised. In either case, the following criteria shall apply:
  - A. The MPO shall provide timely information about the conformity process to interested parties and segments of the community potentially affected by conformity determinations or by programs and policies proposed to ensure conformity, and to the public in general;
  - B. The public shall be assured reasonable access to technical and policy information considered by the agency at the beginning of the public comment period and prior to taking formal action on a conformity determination for all transportation plans and TIPs, consistent with these requirements and those of 23 CFR 450.316(b);
  - C. The MPO shall ensure adequate public notice of public involvement activities and shall allow time for public review and comment at key decision points including, but not limited to, any proposed determination of conformity;
  - D. The MPO shall demonstrate explicit consideration and response to public input received during the conformity determination process. When significant written and oral comments are received on a proposed determination of conformity as a result of the public involvement process, a summary, analysis and report on the disposition of comments shall be made part of the final conformity determination;
  - E. The MPO shall specifically address in writing all public comments that known plans for a regionally significant project which is not receiving FHWA or FTA funding or approval have not been properly reflected in the emissions analysis supporting a proposed conformity finding for a transportation plan or TIP; and
  - F. The MPO will, when imposing any charges for public inspections and copying, be consistent with the fee schedule contained in 49 CFR 7.43.

3. The MPO and other agencies involved in conformity determinations shall also provide opportunity for public involvement in conformity determinations for projects to the extent otherwise required by law.
4. At such times as the MPO proposes to adopt or revise the public involvement process under paragraph (5)(F)2., the MPO shall consult with the agencies listed in paragraph (5)(B)3. on that public involvement process as it relates to conformity determinations. A minimum of forty-five (45) days shall be allowed for these agencies to respond. The MPO shall consider all comments made by the consulting agencies and shall provide each agency with a written statement of its response before moving to adopt the revised public involvement process.
5. In the first year after the adoption of this rule, if there is an approved public involvement process in force and the MPO has not proposed to revise that process, any consulting agency may request such a revision. The MPO shall consider this request and provide a written statement of its response to the requesting agency and other interested parties.

(6) Content of Transportation Plans.

- (A) Transportation Plans Adopted after January 1, 1997, in Serious, Severe, or Extreme Ozone Nonattainment Areas and in Serious Carbon Monoxide Nonattainment Areas. If the metropolitan planning area contains and urbanized area population greater than two hundred thousand (>200,000), the transportation plan must specifically describe the transportation system envisioned for certain future years which shall be called horizon years.
  1. The agency or organization developing the transportation plan, after consultation in accordance with section (5), may choose any years to be horizon years, subject to the following restrictions:
    - A. Horizon years may be no more than ten (10) years apart;
    - B. The first horizon year may be no more than ten (10) years from the base year used to validate the transportation demand planning model;
    - C. If the attainment year is in the time span of the transportation plan, the attainment year must be a horizon year; and
    - D. The last horizon year must be the last year of the transportation plan's forecast period.
  2. For these horizon years—
    - A. The transportation plan shall quantify and document the demographic and employment factors influencing expected transportation demand, including land use forecasts, in accordance with implementation plan provisions and the consultation requirements specified by section (5);



- B. The highway and transit system shall be described in terms of the regionally significant additions or modifications to the existing transportation network which the transportation plan envisions to be operational in the horizon years. Additions and modifications to the highway network shall be sufficiently identified to indicate intersections with existing regionally significant facilities, and to determine their effect on route options between transportation analysis zones. Each added or modified highway segment shall also be sufficiently identified in terms of its design concept and design scope to allow modeling of travel times under various traffic volumes, consistent with the modeling methods for area-wide transportation analysis in use by the MPO. Transit facilities, equipment, and services envisioned for the future shall be identified in terms of design concept, design scope, and operating policies that are sufficient for modeling of their transit ridership. Additions and modifications to the transportation network shall be described sufficiently to show that there is a reasonable relationship between expected land use and the envisioned transportation system; and
- C. Other future transportation policies, requirements, services, and activities, including intermodal activities, shall be described.
- (B) Two(2)-year grace period for transportation plan requirements in certain ozone and CO areas. The requirements of subsection (A) of this section apply to such areas or portions of such areas that have previously not been required to meet these requirements for any existing NAAQS two (2) years from the following:
1. The effective date of EPA's reclassification of an ozone or CO nonattainment area that has an urbanized area population greater than two hundred thousand (>200,000) to serious or above;
  2. The official notice by the Census Bureau that determines the urbanized area population of a serious or above or CO nonattainment area to be greater than two hundred thousand (>200,000); or
  3. The effective date of EPA's action that classifies a newly designated ozone or CO nonattainment area that has an urbanized area population greater than two hundred thousand (>200,000) as serious or above.
- (C) Transportation Plans for Other Areas. Transportation plans for other areas must meet the requirements of subsection (6)(A) of this rule at least to the extent it has been the previous practice of the MPO to prepare plans which meet those requirements. Otherwise, transportation plans must describe the transportation system envisioned for the future and must be sufficiently

- described within the transportation plans so that a conformity determination can be made according to the criteria and procedures of sections (9)–(19).
- (D) Savings. The requirements of this section supplement other requirements of applicable law or regulation governing the format or content of transportation plans.
- (7) Relationship of Transportation Plan and TIP Conformity with the NEPA Process. The degree of specificity required in the transportation plan and the specific travel network assumed for air quality modeling do not preclude the consideration of alternatives in the NEPA process or other project development studies. Should the NEPA process result in a project with design concept and scope significantly different from that in the transportation plan or TIP, the project must meet the criteria in sections (9)–(19) for projects not from a TIP before NEPA process completion.
- (8) Fiscal Constraints for Transportation Plans and TIPs. Transportation plans and TIPs must be fiscally constrained consistent with DOT's metropolitan planning regulations at 23 CFR part 450 as in effect on the date of adoption of this rule in order to be found in conformity. The determination that a transportation plan or TIP is fiscally constrained shall be subject to consultation in accordance with section (5) of this rule.
- (9) Criteria and Procedures for Determining Conformity of Transportation Plans, Programs, and Projects—General.
- (A) In order for each transportation plan, program, and FHWA/FTA project to be found to conform, the MPO and DOT must demonstrate that the applicable criteria and procedures in sections (10)–(19) as listed in Table 1 in subsection (9)(B) of this rule are satisfied, and the MPO and DOT must comply with all applicable conformity requirements of implementation plans and this rule and of court orders for the area which pertain specifically to conformity. The criteria for making conformity determinations differ based on the action under review (transportation plans, TIPs, and FHWA/FTA projects), the relevant pollutant(s), and the status of the implementation plan.
- (B) Table 1 in this section indicates the criteria and procedures in sections (10)–(19) which apply for transportation plans, TIPs, and FHWA/FTA projects. Subsections (C) through (I) of this section explain when the budget, interim emissions, and hot-spot tests are required for each pollutant and NAAQS. Subsection (J) of this section addresses conformity requirements for areas with approved or adequate limited maintenance plans. Subsection (K) of this section addresses nonattainment and maintenance areas which EPA has determined have insignificant motor vehicle emissions. Subsection (L) of this section addresses isolated rural nonattainment and maintenance areas. Subsection (D) of this section explains when budget and emission reduction tests are required for CO nonattainment and maintenance areas. Table 1 follows:

**Table 1—Conformity Criteria**

**All Actions at All Times—**

Section (10)	Latest planning assumptions
Section (11)	Latest emissions model
Section (12)	Consultation

**Transportation Plan—**

Subsection (13)(B)	TCMs
Section (18) and/or Section (19)	Emissions budget and/or interim emissions

**TIP—**

Subsection (13)(C)	TCMs
Section (18) and/or Section (19)	Emissions budget and/or interim emissions

**Project (From a Conforming Plan and TIP)—**

Section (14)	Currently conforming plan and TIP
Section (15)	Project from a conforming plan and TIP
Section (16)	CO and PM <sub>10</sub> hot spots
Section (17)	PM <sub>10</sub> and PM <sub>2.5</sub> control measures

**Project (Not From a Conforming Plan and TIP)—**

Subsection (13)(D)	TCMs
Section (14)	Currently conforming plan and TIP
Section (16)	CO and PM <sub>10</sub> hot spots
Section (17)	PM <sub>10</sub> and PM <sub>2.5</sub> control measures
Section (18) and/or Section (19)	Emissions budget and/or interim emissions

- (C) One (1)-hour ozone NAAQS nonattainment and maintenance areas. This subsection applies when an area is nonattainment or maintenance for the one (1)-hour ozone NAAQS (i.e., until the effective date of any revocation of the one (1)-hour ozone NAAQS for an area). In addition to the criteria listed in Table 1 in subsection (B) of this section that are required to be satisfied at all times, in ozone nonattainment and maintenance areas conformity determinations must include a demonstration that the budget and/or interim emissions tests are satisfied as described in the following:

1. In all one (1)-hour ozone nonattainment and maintenance areas the budget test must be satisfied as required by section (18) for conformity determinations made on or after—
  - A. The effective date of EPA's finding that a motor vehicle emissions budget in a submitted control strategy implementation plan revision or maintenance plan for the one (1)-hour ozone NAAQS is adequate for transportation conformity purposes;
  - B. The publication date of EPA's approval of such a budget in the *Federal Register*; or
  - C. The effective date of EPA's approval of such a budget in the *Federal Register*, if such approval is completed through direct final rulemaking.
2. In ozone nonattainment areas that are required to submit a control strategy implementation plan revision for the one (1)-hour ozone NAAQS (usually moderate and above areas), the interim emissions tests must be satisfied as required by section (19) for conformity determinations made when there is no approved motor vehicle emissions budget from an applicable implementation plan for the one (1)-hour ozone NAAQS and no adequate motor vehicle emissions budget from a submitted control strategy implementation plan revision or maintenance plan for the one (1)-hour ozone NAAQS.
3. An ozone nonattainment area must satisfy the interim emissions test for NO<sub>x</sub>, as required by section (19), if the implementation plan or plan submission that is applicable for the purposes of conformity determinations is a fifteen percent (15%) plan or Phase I attainment demonstration that does not include a motor vehicle emissions budget for NO<sub>x</sub>. The implementation plan for the one (1)-hour ozone NAAQS will be considered to establish a motor vehicle emissions budget for NO<sub>x</sub> if the implementation plan or plan submission contains an explicit NO<sub>x</sub> motor vehicle emissions budget that is intended to act as a ceiling on future NO<sub>x</sub> emissions, and the NO<sub>x</sub> motor vehicle emissions budget is a net reduction from NO<sub>x</sub> emissions levels in 1990.
4. Ozone nonattainment areas that have not submitted a maintenance plan and that are not required to submit a control strategy implementation plan revision for the one (1)-hour ozone NAAQS (usually marginal and below areas) must satisfy one (1) of the following requirements—
  - A. The interim emissions tests required by section (19); or
  - B. The state shall submit to EPA an implementation plan revision for the one (1)-hour NAAQS that contains motor vehicle emissions budget(s) and a reasonable further progress or attainment demonstration, and the budget test

required by section (18) must be satisfied using the adequate or approved motor vehicle emissions budget(s) (as described in paragraph (C)1. of this section).

5. Notwithstanding paragraphs (C)1. and (C)2. of this section, moderate and above ozone nonattainment areas with three (3) years of clean data for the one (1)-hour ozone NAAQS that have not submitted a maintenance plan and that EPA has determined are not subject to the Clean Air Act reasonable further progress and attainment demonstration requirements for the one (1)-hour ozone NAAQS must satisfy one (1) of the following requirements—
    - A. The interim emissions tests as required by section (19);
    - B. The budget test as required by section (18), using the adequate or approved motor vehicle emissions budgets in the submitted or applicable control strategy implementation plan for the one (1)-hour ozone NAAQS (subject to the timing requirements of paragraph (C)1. of this section); or
    - C. The budget test as required by section (18), using the motor vehicle emissions of ozone precursors in the most recent year of clean data as motor vehicle emissions budgets, if such budgets are established by the EPA rulemaking that determines that the area has clean data for the one (1)-hour ozone NAAQS.
- (D) Eight (8)-hour ozone NAAQS nonattainment and maintenance areas without motor vehicle emissions budgets for the one (1)-hour ozone NAAQS for any portion of the eight (8)-hour nonattainment area. This subsection applies to areas that were never designated nonattainment for the one (1)-hour ozone NAAQS and areas that were designated nonattainment for the one (1)-hour ozone NAAQS but that never submitted a control strategy SIP or maintenance plan with approved or adequate motor vehicle emissions budgets. This subsection applies one (1) year after the effective date of EPA's nonattainment designation for the eight (8)-hour ozone NAAQS for an area, according to subsection (2)(D). In addition to the criteria listed in Table 1 in subsection (B) of this section that are required to be satisfied at all times, in such eight (8)-hour ozone nonattainment and maintenance areas conformity determinations must include a demonstration that the budget and/or interim emissions tests are satisfied as described in the following:
1. In such eight (8)-hour ozone nonattainment and maintenance areas the budget test must be satisfied as required by section (18) for conformity determinations made on or after—
    - A. The effective date of EPA's finding that a motor vehicle emissions budget in a submitted control strategy implementation plan revision or maintenance plan for the eight (8)-hour ozone NAAQS is adequate for transportation conformity purposes;

- B. The publication date of EPA's approval of such a budget in the *Federal Register*; or
  - C. The effective date of EPA's approval of such a budget in the *Federal Register*, if such approval is completed through direct final rulemaking;
- 2. In ozone nonattainment areas that are required to submit a control strategy implementation plan revision for the eight (8)-hour ozone NAAQS (usually moderate and above and certain Clean Air Act, part D, subpart 1 areas), the interim emissions tests must be satisfied as required by section (19) for conformity determinations made when there is no approved motor vehicle emissions budget from an applicable implementation plan for the eight (8)-hour ozone NAAQS and no adequate motor vehicle emissions budget from a submitted control strategy implementation plan revision or maintenance plan for the eight (8)-hour ozone NAAQS;
  - 3. Such an eight (8)-hour ozone nonattainment area must satisfy the interim emissions test for NO<sub>x</sub>, as required by section (19), if the implementation plan or plan submission that is applicable for the purposes of conformity determinations is a fifteen percent (15%) plan or other control strategy SIP that addresses reasonable further progress that does not include a motor vehicle emissions budget for NO<sub>x</sub>. The implementation plan for the eight (8)-hour ozone NAAQS will be considered to establish a motor vehicle emissions budget for NO<sub>x</sub> if the implementation plan submission contains an explicit NO<sub>x</sub> motor vehicle emissions budget that is intended to act as a ceiling on future NO<sub>x</sub> emissions, and the NO<sub>x</sub> motor vehicle emissions budget is a net reduction from NO<sub>x</sub> emissions levels in 2002;
  - 4. Ozone nonattainment areas that have not submitted a maintenance plan and that are not required to submit a control strategy implementation plan revision for the eight (8)-hour ozone NAAQS (usually marginal and certain Clean Air Act, part D, subpart 1 areas) must satisfy one (1) of the following requirements—
    - A. The interim emissions tests required by section (19); or
    - B. The state shall submit to EPA an implementation plan revision for the eight (8)-hour ozone NAAQS that contains motor vehicle emissions budget(s) and a reasonable further progress or attainment demonstration, and the budget test required by section (18) must be satisfied using the adequate or approved motor vehicle emissions budget(s) (as described in paragraph (D)1. of this section);
  - 5. Notwithstanding paragraphs (D)1. and (D)2. of this section, ozone nonattainment areas with three (3) years of clean data for the 8-hour ozone NAAQS that have not submitted a maintenance plan and that EPA has determined are not subject to the Clean Air Act reasonable

further progress and attainment demonstration requirements for the 8-hour ozone NAAQS must satisfy one (1) of the following requirements—

- A. The interim emissions tests as required by section (19);
- B. The budget test as required by section (18), using the adequate or approved motor vehicle emissions budgets in the submitted or applicable control strategy implementation plan for the 8-hour ozone NAAQS (subject to the timing requirements of paragraph (D)1. of this section); or
- C. The budget test as required by section (18), using the motor vehicle emissions of ozone precursors in the most recent year of clean data as motor vehicle emissions, if such budgets are established by the EPA rulemaking that determines that the area has clean data for the eight (8)-hour ozone NAAQS.

(E) Eight (8)-hour ozone NAAQS nonattainment and maintenance areas with motor vehicle emissions budgets for the one (1)-hour ozone NAAQS that cover all or a portion of the eight (8)-hour nonattainment area. This provision applies one (1) year after the effective date of EPA's nonattainment designation for the eight (8)-hour ozone NAAQS for an area, according to subsection (2)(D). In addition to the criteria listed in Table 1 in subsection (B) of this section that are required to be satisfied at all times, in such eight (8)-hour ozone nonattainment and maintenance areas conformity determinations must include a demonstration that the budget and/or interim emissions tests are satisfied as described in the following:

- 1. In such eight (8)-hour ozone nonattainment and maintenance areas the budget test must be satisfied as required by section (18) for conformity determinations made on or after—
  - A. The effective date of EPA's finding that a motor vehicle emissions budget in a submitted control strategy implementation plan revision or maintenance plan for the eight (8)-hour ozone NAAQS is adequate for transportation conformity purposes;
  - B. The publication date of EPA's approval of such budget in the *Federal Register*; or
  - C. The effective date of EPA's approval of such a budget in the *Federal Register*, if such approval is completed through direct final rulemaking;
- 2. Prior to paragraph (E)1. of this section applying, the following test(s) must be satisfied, subject to the exception in subparagraph (E)2.E.—
  - A. If the eight (8)-hour ozone nonattainment area covers the same geographic area as the one (1)-hour ozone nonattainment or maintenance area(s), the budget test as required by section (18) using the approved or adequate

motor vehicle emissions budgets in the 1-hour ozone applicable implementation plan or implementation plan submission;

- B. If the eight (8)-hour ozone nonattainment area covers a smaller geographic area within the one (1)-hour ozone nonattainment or maintenance area(s), the budget test as required by section (18) for either—
  - (I) The eight (8)-hour nonattainment area using corresponding portion(s) of the approved or adequate motor vehicle emissions budgets in the one (1)-hour ozone applicable implementation plan or implementation plan submission where such portion(s) can reasonably be identified through the interagency consultation process required by section (5); or
  - (II) The one (1)-hour nonattainment area using the approved or adequate motor vehicle emissions budgets in the one (1)-hour ozone applicable implementation plan or implementation plan submission. If additional emissions reductions are necessary to meet the budget test for the eight (8)-hour ozone NAAQS in such cases, these emissions reductions must come from within the eight (8)-hour nonattainment area;
- C. If the eight (8)-hour ozone nonattainment area covers a larger geographic area and encompasses the entire one (1)-hour ozone nonattainment or maintenance area(s)—
  - (I) The budget test as required by section (18) for the portion of the (8)-hour ozone nonattainment area covered by the approved or adequate motor vehicle emissions budgets in the one (1)-hour ozone applicable implementation plan or implementation plan submission; and
  - (II) The interim emissions tests as required by section (19) for either—the portion of the eight (8)-hour ozone nonattainment area not covered by the approved or adequate budgets in the one (1)-hour ozone implementation plan, the entire eight (8)-hour ozone nonattainment area, or the entire portion of the eight (8)-hour ozone nonattainment area within an individual state, in the case where separate one (1)-hour SIP budgets are established for each state of a multi-state one (1)-hour nonattainment or maintenance area;



- D. If the eight (8)-hour ozone nonattainment area partially covers a one (1)-hour ozone nonattainment or maintenance area(s)—
    - (I) The budget test as required by section (18) for the portion of the eight (8)-hour ozone nonattainment area covered by the corresponding portion of the approved or adequate motor vehicle emissions budgets in the one (1)-hour ozone applicable implementation plan or implementation plan submission where they can be reasonably identified through the interagency consultation process required by section (5); and
    - (II) The interim emissions tests as required by section (19), when applicable, for either—the portion of the eight (8)-hour ozone nonattainment area not covered by the approved or adequate budgets in the one (1)-hour ozone implementation plan, the entire eight (8)-hour ozone nonattainment area, or the entire portion of the eight (8)-hour ozone nonattainment area within an individual state, in the case where separate one (1)-hour SIP budgets are established for each state in a multi-state 1-hour nonattainment or maintenance area;
  - E. Notwithstanding paragraphs (E)2.A., B., C., or D. of this section, the interim emissions tests as required by section (19), where the budget test using the approved or adequate motor vehicle emissions budgets in the one (1)-hour ozone applicable implementation plan(s) or implementation plan submission(s) for the relevant area or portion thereof is not the appropriate test and the interim emissions tests are more appropriate to ensure that the transportation plan, TIP, or project not from a conforming plan and TIP will not create new violations, worsen existing violations, or delay timely attainment of the eight (8)-hour ozone standard, as determined through the interagency consultation process required by section (5);
3. Such an eight (8)-hour ozone nonattainment area must satisfy the interim emissions test for NO<sub>x</sub>, as required by section (19), if the only implementation plan or plan submission that is applicable for the purposes of conformity determinations is a fifteen percent (15%) plan or other control strategy SIP that addresses reasonable further progress that does not include a motor vehicle emissions budget for NO<sub>x</sub>. The implementation plan for the eight (8)-hour ozone NAAQS will be considered to establish a motor vehicle emissions budget for NO<sub>x</sub> if the implementation plan or plan

submission contains an explicit NO<sub>x</sub> motor vehicle emissions budget that is intended to act as a ceiling on future NO<sub>x</sub> emissions, and the NO<sub>x</sub> motor vehicle emissions budget is a net reduction from NO<sub>x</sub> emissions levels in 2002. Prior to an adequate or approved NO<sub>x</sub> motor vehicle emissions budget in the implementation plan submission for the eight (8)-hour ozone NAAQS, the implementation plan for the one (1)-hour ozone NAAQS will be considered to establish a motor vehicle emissions budget for NO<sub>x</sub> if the implementation plan contains an explicit NO<sub>x</sub> motor vehicle emissions budget that is intended to act as a ceiling on future NO<sub>x</sub> emissions, and the NO<sub>x</sub> motor vehicle emissions budget is a net reduction from NO<sub>x</sub> emissions levels in 1990; and

4. Notwithstanding paragraphs (E)1. and (E)2. of this section, ozone nonattainment areas with three (3) years of clean data for the eight (8)-hour ozone NAAQS that have not submitted a maintenance plan and that EPA has determined are not subject to the Clean Air Act reasonable further progress and attainment demonstration requirements for the eight (8)-hour ozone NAAQS must satisfy one (1) of the following requirements—

- A. The budget test and/or interim emissions tests as required by sections (18) and (19) and as described in paragraph (E)2. of this section;
- B. The budget test as required by section (18), using the adequate or approved motor vehicle emissions budgets in the submitted or applicable control strategy implementation plan for the eight (8)-hour ozone NAAQS (subject to the timing requirements of paragraph (E)1. of this section); or
- C. The budget test as required by section (18), using the motor vehicle emissions of ozone precursors in the most recent year of clean data as motor vehicle emissions budgets, if such budgets are established by the EPA rulemaking that determines that the area has clean data for the eight (8)-hour ozone NAAQS.

- (F) CO nonattainment and maintenance areas. In addition to the criteria listed in Table 1 in subsection (B) of this section that are required to be satisfied at all times, in CO nonattainment and maintenance areas conformity determinations must include a demonstration that the hot-spot, budget and/or interim emissions tests are satisfied as described in the following:

1. FHWA/FTA projects in CO nonattainment or maintenance areas must satisfy the hot-spot test required by section (16) at all times. Until a CO attainment demonstration or maintenance plan is approved by EPA, FHWA/FTA projects must also satisfy the hot-spot test required by subsection (16)(B).

2. In CO nonattainment and maintenance areas the budget test must be satisfied as required by section (18) for conformity determinations made on or after—
    - A. The effective date of EPA’s finding that a motor vehicle emissions budget in a submitted control strategy implementation plan revision or maintenance plan is adequate for transportation conformity purposes;
    - B. The publication date of EPA’s approval of such a budget in the *Federal Register*; or
    - C. The effective date of EPA’s approval of such a budget in the *Federal Register*, if such approval is completed through direct final rulemaking.
  3. Except as provided in paragraph (F)4. of this section, in CO nonattainment areas the interim emissions tests must be satisfied as required by section (19) for conformity determinations made when there is no approved motor vehicle emissions budget from an applicable implementation plan and no adequate motor vehicle emissions budget from a submitted control strategy implementation plan revision or maintenance plan.
  4. CO nonattainment areas that have not submitted a maintenance plan and that are not required to submit an attainment demonstration (e.g., moderate CO areas with a design value of 12.7 ppm or less or not classified CO areas) must satisfy one of the following requirements:
    - A. The interim emissions tests required by section (19); or
    - B. The state shall submit to EPA an implementation plan revision that contains motor vehicle emissions budget(s) and an attainment demonstration, and the budget test required by section (18) must be satisfied using the adequate or approved motor vehicle emissions budget(s) (as described in paragraph (F)2. of this section).
- (G) PM<sub>10</sub> nonattainment and maintenance areas. In addition to the criteria listed in Table 1 of subsection (B) of this section that are required to be satisfied at all times, in PM<sub>10</sub> nonattainment and maintenance areas conformity determinations must include a demonstration that the hot -spot, budget and/or interim emissions tests are satisfied as described in the following:
1. FHWA/FTA projects in PM<sub>10</sub> nonattainment or maintenance areas must satisfy the hot-spot test required by subsection (16)(A).
  2. In PM<sub>10</sub> nonattainment and maintenance areas the budget test must be satisfied as required by section (18) for conformity determinations made on or after—
    - A. The effective date of EPA’s finding that a motor vehicle emissions budget in a submitted control strategy

- implementation plan revision or maintenance plan is adequate for transportation conformity purposes;
    - B. The publication date of EPA's approval of such a budget in the *Federal Register*; or
    - C. The effective date of EPA's approval of such a budget in the *Federal Register*, if such approval is completed through direct final rulemaking.
  - 3. In PM<sub>10</sub> nonattainment areas the interim emissions tests must be satisfied as required by section (19) for conformity determinations made—
    - A. If there is no approved motor vehicle emissions budget from an applicable implementation plan and no adequate motor vehicle emissions budget from a submitted control strategy implementation plan revision or maintenance plan; or
    - B. If the submitted implementation plan revision is a demonstration of impracticability under CAA section 189(a)(1)(B)(ii) and does not demonstrate attainment.
- (H) NO<sub>2</sub> nonattainment and maintenance areas. In addition to the criteria listed in Table 1 in subsection (B) of this section that are required to be satisfied at all times, in NO<sub>2</sub> nonattainment and maintenance areas conformity determinations must include a demonstration that the budget and/or interim emissions tests are satisfied as described in the following:
  - 1. In NO<sub>2</sub> nonattainment and maintenance areas the budget test must be satisfied as required by section (18) for conformity determinations made on or after—
    - A. The effective date of EPA's finding that a motor vehicle emissions budget in a submitted control strategy implementation plan revision or maintenance plan is adequate for transportation conformity purposes;
    - B. The publication date of EPA's approval of such a budget in the *Federal Register*; or
    - C. The effective date of EPA's approval of such a budget in the *Federal Register*, if such approval is completed through direct final rulemaking.
  - 2. In NO<sub>2</sub> nonattainment areas the interim emissions tests must be satisfied as required by section (19) for conformity determinations made when there is no approved motor vehicle emissions budget from an applicable implementation plan and no adequate motor vehicle emissions budget from a submitted control strategy implementation plan revision or maintenance plan.
- (I) PM<sub>2.5</sub> nonattainment and maintenance areas. In addition to the criteria listed in Table 1 in subsection (B) of this section that are required to be satisfied at all times, in PM<sub>2.5</sub> nonattainment and maintenance areas conformity determinations must include a demonstration that the budget and/or interim emissions tests are satisfied as described in the following:

1. In PM<sub>2.5</sub> nonattainment and maintenance areas the budget test must be satisfied as required by section (18) for conformity determinations made on or after—
    - A. The effective date of EPA's finding that a motor vehicle emissions budget in a submitted control strategy implementation plan revision or maintenance plan is adequate for transportation conformity purposes;
    - B. The publication date of EPA's approval of such a budget in the *Federal Register*; or
    - C. The effective date of EPA's approval of such a budget in the *Federal Register*, if such approval is completed through direct final rulemaking.
  2. In PM<sub>2.5</sub> nonattainment areas the interim emissions tests must be satisfied as required by section (19) for conformity determinations made if there is no approved motor vehicle emissions budget from an applicable implementation plan and no adequate motor vehicle emissions budget from a submitted control strategy implementation plan revision or maintenance plan.
- (J) Areas with limited maintenance plans. Notwithstanding the other subsections of this section, an area is not required to satisfy the regional emissions analysis for section (18) and/or section (19) for a given pollutant and NAAQS, if the area has an adequate or approved limited maintenance plan for such pollutant and NAAQS. A limited maintenance plan would have to demonstrate that it would be unreasonable to expect that such an area would experience enough motor vehicle emissions growth for a NAAQS violation to occur. A conformity determination that meets other applicable criteria in Table 1 of subsection (B) of this section is still required, including the hot-spot requirements for projects in CO and PM<sub>10</sub> areas.
- (K) Areas with insignificant motor vehicle emissions. Notwithstanding the other subsections of this section, an area is not required to satisfy a regional emissions analysis for section (18) and/or section (19) for a given pollutant/precursor and NAAQS, if EPA finds through the adequacy or approval process that a SIP demonstrates that regional motor vehicle emissions are an insignificant contributor to the air quality problem for that pollutant/precursor and NAAQS. The SIP would have to demonstrate that it would be unreasonable to expect that such an area would experience enough motor vehicle emissions growth in that pollutant/precursor for a NAAQS violation to occur. Such a finding would be based on a number of factors, including the percentage of motor vehicle emissions in the context of the total SIP inventory, the current state of air quality as determined by monitoring data for that NAAQS, the absence of SIP motor vehicle control measures, and historical trends and future projections of the growth of motor vehicle emissions. A conformity determination that meets other applicable criteria in Table 1 of subsection (B) of this section is still required, including regional emissions analyses for section (18) and/or section (19) for other

pollutants/precursors and NAAQS that apply. Hot-spot requirements for projects in CO and PM<sub>10</sub> areas in section (16) must also be satisfied, unless EPA determines that the SIP also demonstrates that projects will not create new localized violations and/or increase the severity or number of existing violations of such NAAQS. If EPA subsequently finds that motor vehicle emissions of a given pollutant/precursor are significant, this subsection would no longer apply for future conformity determinations for that pollutant/precursor and NAAQS.

- (L) Isolated rural nonattainment and maintenance areas. This subsection applies to any nonattainment or maintenance area (or portion thereof) which does not have a metropolitan transportation plan or TIP and whose projects are not part of the emissions analysis of any MPO's metropolitan transportation plan or TIP. This subsection does not apply to "donut" areas which are outside the metropolitan planning boundary and inside the nonattainment/maintenance area boundary.
1. FHWA/FTA projects in all isolated rural nonattainment and maintenance areas must satisfy the requirements of sections (10), (11), (12), (16), and (17) and subsection (13)(D). Until EPA approves the control strategy implementation plan or maintenance plan for a rural CO nonattainment or maintenance area, FHWA/FTA projects must also satisfy the requirements of subsection (16)(B) ("Localized CO and PM<sub>10</sub> violations (hot spots)").
  2. Isolated rural nonattainment and maintenance areas are subject to the budget and/or interim emissions tests as described in subsections (C) through (K) of this section, with the following modifications—
    - A. When the requirements of sections (18) and (19) apply to isolated rural nonattainment and maintenance areas, references to "transportation plan" or "TIP" should be taken to mean those projects in the statewide transportation plan or statewide TIP which are in the rural nonattainment or maintenance area.
    - B. In isolated rural nonattainment and maintenance areas that are subject to section (18), FHWA/FTA projects must be consistent with motor vehicle emissions budget(s) for the years in the time frame of the attainment demonstration or maintenance plan. For years after the attainment year (if a maintenance plan has not been submitted) or after the last year of the maintenance plan, FHWA/FTA projects must satisfy one (1) of the following requirements—
      - (I) Section (18);
      - (II) Section (19) (including regional emissions analysis for NO<sub>x</sub> in all ozone nonattainment and maintenance areas, notwithstanding paragraph (19)(F)2.; or

(III) As demonstrated by the air quality dispersion model or other air quality modeling technique used in the attainment demonstration or maintenance plan, the FHWA/FTA project, in combination with all other regionally significant projects expected in the area in the time frame of the statewide transportation plan, must not cause or contribute to any new violation of any standard in any areas; increase the frequency or severity of any existing violation of any standard in any area; or delay timely attainment of any standard or any required interim emission reductions or other milestones in any area. Control measures assumed in the analysis must be enforceable.

C. The choice of requirements in subparagraph (L)2.B. of this section and the methodology used to meet the requirements of part (L)2.B.III. of this section must be determined through the interagency consultation process required in subparagraph (5)(C)1.G. through which the relevant recipients of Title 23 U.S.C. or Federal Transit Laws funds, the local air quality agency, the state air quality agency, and the state department of transportation should reach consensus about the option and methodology selected. EPA and DOT must be consulted through this process as well. In the event of unresolved disputes, conflicts may be escalated to the governor consistent with the procedure in subsection (5)(D), which applies for any state air agency comments on a conformity determination.

(10) Criteria and Procedures—Latest Planning Assumptions.

- (A) Except as provided in this paragraph, the conformity determination, with respect to all other applicable criteria in sections (11)—(19), must be based upon the most recent planning assumptions in force at the time the conformity analysis begins. The conformity determination must satisfy the requirements of subsections (10)(B)—(F) of this rule using the planning assumptions available at the time the conformity analysis begins as determined through the interagency consultation process required in section (5). The “time the conformity analysis begins” for a transportation plan or TIP determination is the point at which the MPO or other designated agency begins to model the impact of the proposed transportation plan or TIP on travel and/or emissions. New data that becomes available after an analysis begins is required to be used in the conformity determination only if a significant delay in the analysis has occurred, as determined through interagency consultation.
- (B) Assumptions (including, but not limited to, vehicle miles traveled per capita or per household or per vehicle, trip generation per household, vehicle

occupancy, household size, vehicle fleet mix, vehicle ownership, and the geographic distribution of population growth) must be derived from the estimates of current and future population, employment, travel, and congestion most recently developed by the MPO or other agency authorized to make such estimates and approved by the MPO. The conformity determination must also be based on the latest assumptions about current and future background concentrations. Any revisions to these estimates used as part of the conformity determination, including projected shifts in geographic location or level of population, employment, travel, and congestion, must be approved by the MPO, and shall be subject to consultation in accordance with section (5).

- (C) The conformity determination for each transportation plan and TIP must discuss how transit operating policies (including fares and service levels) and assumed transit ridership have changed since the previous conformity determination.
- (D) The conformity determination must include reasonable assumptions about transit service and increases in transit fares and road and bridge tolls over time.
- (E) The conformity determination must use the latest existing information regarding the effectiveness of the TCMs and other implementation plan measures which have already been implemented.
- (F) Key assumptions shall be specified and included in the draft documents and supporting materials used for the interagency and public consultation required by section (5).

(11) Criteria and Procedures—Latest Emissions Model.

- (A) The conformity determination must be based on the latest emission estimation model available. This criterion is satisfied if the most current version of the motor vehicle emissions model specified by EPA for use in the preparation or revision of implementation plans in that state or area is used for the conformity analysis.
- (B) EPA will consult with DOT to establish a grace period following the specification of any new model.
  - 1. The grace period will be no less than three (3) months and no more than twenty-four (24) months after notice of availability is published in the *Federal Register*.
  - 2. The length of the grace period will depend on the degree of change in the model and the scope of re-planning likely to be necessary by MPOs in order to assure conformity. If the grace period will be longer than three (3) months, EPA will announce the appropriate grace period in the *Federal Register*.
- (C) Transportation plan and TIP conformity analyses for which the emissions analysis was begun during the grace period or before the *Federal Register* notice of availability of the latest emission model may continue to use the previous version of the model. Conformity determinations for projects may



also be based on the previous model if the analysis was begun during the grace period or before the *Federal Register* notice of availability, and if the final environmental document for the project is issued no more than three (3) years after the issuance of the draft environmental document.

- (12) Criteria and Procedures—Consultation. Conformity must be determined according to the consultation procedures in this rule and in the applicable implementation plan, and according to the public involvement procedures established in compliance with 23 CFR part 450. Until the implementation plan is fully approved by EPA, the conformity determination must be made according to paragraph (5)(A)2. and subsection (5)(E) and the requirements of 23 CFR part 450.
- (13) Criteria and Procedures—Timely Implementation of TCMs.
- (A) The transportation plan, TIP, or any FHWA/FTA project which is not from a conforming plan and TIP must provide for the timely implementation of TCMs from the applicable implementation plan.
- (B) For transportation plans, this criterion is satisfied if the following two (2) conditions are met:
1. The transportation plan, in describing the envisioned future transportation system, provides for the timely completion or implementation of all TCMs in the applicable implementation plan which are eligible for funding under Title 23 U.S.C. or the Federal Transit Laws, consistent with schedules included in the applicable implementation plan; and
  2. Nothing in the transportation plan interferes with the implementation of any TCM in the applicable implementation plan.
- (C) For TIPs, this criterion is satisfied if the following conditions are met:
1. An examination of the specific steps and funding source(s) needed to fully implement each TCM indicates that TCMs which are eligible for funding under Title 23 U.S.C. or the Federal Transit Laws, are on or ahead of the schedule established in the applicable implementation plan, or, if such TCMs are behind the schedule established in the applicable implementation plan, the MPO and DOT have determined that past obstacles to implementation of the TCMs have been identified and have been or are being overcome, and that all state and local agencies with influence over approvals or funding for TCMs are giving maximum priority to approval or funding of TCMs over other projects within their control, including projects in locations outside the nonattainment or maintenance area.
  2. If TCMs in the applicable implementation plan have previously been programmed for federal funding but the funds have not been obligated and the TCMs are behind the schedule in the implementation plan, then the TIP cannot be found to conform if the funds intended for those TCMs are reallocated to projects in the TIP other than TCMs, or if there are no other TCMs in the TIP, if

- the funds are reallocated to projects in the TIP other than projects which are eligible for federal funding intended for air quality improvement projects, e.g., the Congestion Mitigation and Air Quality Improvement Program; and
3. Nothing in the TIP may interfere with the implementation of any TCM in the applicable implementation plan.
- (D) For FHWA/FTA projects which are not from a conforming transportation plan and TIP, this criterion is satisfied if the project does not interfere with the implementation of any TCM in the applicable implementation plan.
- (14) Criteria and Procedures—Currently Conforming Transportation Plan and TIP. There must be a currently conforming transportation plan and currently conforming TIP at the time of project approval.
- (A) Only one (1) conforming transportation plan or TIP may exist in an area at any time; conformity determinations of a previous transportation plan or TIP expire once the current plan or TIP is found to conform by DOT. The conformity determination on a transportation plan or TIP will also lapse if conformity is not determined according to the frequency requirements specified in section (4) of this rule.
- (B) This criterion is not required to be satisfied at the time of project approval for a TCM specifically included in the applicable implementation plan, provided that all other relevant criteria of this subsection are satisfied.
- (15) Criteria and Procedures—Projects From a Plan and TIP.
- (A) The project must come from a conforming plan and program. If this criterion is not satisfied, the project must satisfy all criteria in Table 1 of subsection (9)(B) for a project not from a conforming transportation plan and TIP. A project is considered to be from a conforming transportation plan if it meets the requirements of subsection (15)(B) of this rule and from a conforming program if it meets the requirements of subsection (15)(C) of this rule. Special provisions for TCMs in an applicable implementation plan are provided in subsection (15)(D) of this rule.
- (B) A project is considered to be from a conforming transportation plan if one (1) of the following conditions applies:
1. For projects which are required to be identified in the transportation plan in order to satisfy section (6) Content of Transportation Plans of this rule, the project is specifically included in the conforming transportation plan and the project's design concept and scope have not changed significantly from those which were described in the transportation plan, or in a manner which would significantly impact use of the facility; or
  2. For projects which are not required to be specifically identified in the transportation plan, the project is identified in the conforming transportation plan, or is consistent with the policies and purpose of

- the transportation plan and will not interfere with other projects specifically included in the transportation plan.
- (C) A project is considered to be from a conforming program if the following conditions are met:
1. The project is included in the conforming TIP and the design concept and scope of the project were adequate at the time of the TIP conformity determination to determine its contribution to the TIP's regional emissions, and the project design concept and scope have not changed significantly from those which were described in the TIP; and
  2. If the TIP describes a project design concept and scope which includes project-level emissions mitigation or control measures, written commitments to implement such measures must be obtained from the project sponsor and/or operator as required by subsection (25)(A) in order for the project to be considered from a conforming program. Any change in these mitigation or control measures that would significantly reduce their effectiveness constitutes a change in the design concept and scope of the project.
- (D) TCMs. This criterion is not required to be satisfied for TCMs specifically included in an applicable implementation plan.
- (16) Criteria and Procedures—Localized CO and PM<sub>10</sub> Violations (Hot Spots).
- (A) This subsection applies at all times. The FHWA/FTA project must not cause or contribute to any new localized CO or PM<sub>10</sub> violations or increase the frequency or severity of any existing CO or PM<sub>10</sub> violations in CO and PM<sub>10</sub> nonattainment and maintenance areas. This criterion is satisfied if it is demonstrated that during the time frame of the transportation plan (or regional emissions analysis) no new local violations will be created and the severity or number of existing violations will not be increased as a result of the project. The demonstration must be performed according to the consultation requirements of subparagraph (5)(C)1.A. and the methodology requirements of section (23).
- (B) This subsection applies for CO nonattainment areas as described in paragraph (9)(D)1. Each FHWA/FTA project must eliminate or reduce the severity and number of localized CO violations in the area substantially affected by the project (in CO nonattainment areas). This criteria is satisfied with respect to existing localized CO violations if it is demonstrated that during the time frame of the transportation plan (or regional emissions analysis) existing localized CO violations will be eliminated or reduced in severity and number as a result of the project. The demonstration must be performed according to the consultation requirements of subparagraph (5)(C)1.A. and the methodology requirements of section (23).
- (17) Criteria and Procedures—Compliance with PM<sub>10</sub> and PM<sub>2.5</sub> Control Measures. The FHWA/FTA project must comply with any PM<sub>10</sub> and PM<sub>2.5</sub> control measures in the

applicable implementation plan. This criterion is satisfied if the project-level conformity determination contains a written commitment from the project sponsor to include in the final plans, specifications, and estimates for the project those control measures (for the purpose of limiting PM<sub>10</sub> and PM<sub>2.5</sub> emissions from the construction activities and/or normal use and operation associated with the project) that are contained in the applicable implementation plan.

(18) Criteria and Procedures—Motor Vehicle Emissions Budget.

- (A) The transportation plan, TIP, and project not from a conforming transportation plan and TIP must be consistent with the motor vehicle emissions budget(s) in the applicable implementation plan (or implementation plan submission). This criterion applies as described in subsections (9)(C) through (L). This criterion is satisfied if it is demonstrated that emissions of the pollutants or pollutant precursors described in subsection (C) of this section are less than or equal to the motor vehicle emissions budget(s) established in the applicable implementation plan or implementation plan submission.
- (B) Consistency with the motor vehicle emissions budget(s) must be demonstrated for each year for which the applicable (and/or submitted) implementation plan specifically establishes motor vehicle emissions budget(s), for the attainment year (if it is within the time frame of the transportation plan) for the last year of the transportation plan's forecast period, and for any intermediate years as necessary so that the years for which consistency is demonstrated are no more than ten (10) years apart, as follows:
  - 1. Until a maintenance plan is submitted—
    - A. Emissions in each year (such as milestone years and the attainment year) for which the control strategy implementation plan revision establishes motor vehicle emissions budget(s) must be less than or equal to that year's motor vehicle emissions budget(s); and
    - B. Emissions in years for which no motor vehicle emissions budget(s) are specifically established must be less than or equal to the motor vehicle emissions budget(s) established for the most recent prior year. For example, emissions in years after the attainment year for which the implementation plan does not establish a budget must be less than or equal to the motor vehicle emissions budget(s) for the attainment year.
  - 2. When a maintenance plan has been submitted—
    - A. Emissions must be less than or equal to the motor vehicle emissions budget(s) established for the last year of the maintenance plan, and for any other years for which the maintenance plan establishes motor vehicle emissions budgets. If the maintenance plan does not establish motor

vehicle emissions budgets for any years other than the last year of the maintenance plan, the demonstration of consistency with the motor vehicle emissions budget(s) must be accompanied by a qualitative finding that there are no factors which would cause or contribute to a new violation or exacerbate an existing violation in the years before the last year of the maintenance plan. The interagency consultation process required by section (5) shall determine what must be considered in order to make such a finding;

- B. For years after the last year of the maintenance plan, emissions must be less than or equal to the maintenance plan's motor vehicle emissions budget(s) for the last year of the maintenance plan;
- C. If an approved and/or submitted control strategy implementation plan has established motor vehicle emissions budgets for years in the time frame of the transportation plan, emissions in these years must be less than or equal to the control strategy implementation plan's motor vehicle emissions budget(s) for these years; and
- D. For any analysis years before the last year of the maintenance plan, emissions must be less than or equal to the motor vehicle emissions budget(s) established for the most recent prior year.

(C) Consistency with the motor vehicle emissions budget(s) must be demonstrated for each pollutant or pollutant precursor in subsection (2)(B) for which the area is in nonattainment or maintenance and for which the applicable implementation plan (or implementation plan submission) establishes a motor vehicle emissions budget.

(D) Consistency with the motor vehicle emissions budget(s) must be demonstrated by including emissions from the entire transportation system, including all regionally significant projects contained in the transportation plan and all other regionally significant highway and transit projects expected in the nonattainment or maintenance area in the time frame of the transportation plan.

1. Consistency with the motor vehicle emissions budget(s) must be demonstrated with a regional emissions analysis that meets the requirements of section (22) and subparagraph (5)(C)1.A.
2. The regional emissions analysis may be performed for any years in the time frame of the transportation plan provided they are not more than ten (10) years apart and provided the analysis is performed for the attainment year (if it is in the time frame of the transportation plan) and the last year of the plan's forecast period. Emissions in years for which consistency with motor vehicle emissions budgets must be demonstrated, as required in subsection (B) of this section,

may be determined by interpolating between the years for which the regional emissions analysis is performed.

(E) Motor Vehicle Emissions Budgets in Submitted Control Strategy Implementation Plan Revisions and Submitted Maintenance Plans.

1. Consistency with the motor vehicle emissions budgets in submitted control strategy implementation plan revisions or maintenance plans must be demonstrated if EPA has declared the motor vehicle emissions budget(s) adequate for transportation conformity purposes, and the adequacy finding is effective. However, motor vehicle emissions budgets in submitted implementation plans do not supercede the motor vehicle emissions budgets in approved implementation plans for the same Clean Air Act requirement and the period of years addressed by the previously approved implementation plan, unless EPA specifies otherwise in its approval of a SIP.
2. If EPA has not declared an implementation plan submission's motor vehicle emissions budget(s) adequate for transportation conformity purposes, the budget(s) shall not be used to satisfy the requirements of this section. Consistency with the previously established motor vehicle emissions budget(s) must be demonstrated. If there are no previous approved implementation plans or implementation plan submissions with adequate motor vehicle emissions budgets, the interim emissions tests required by section (19) must be satisfied.
3. If EPA declares an implementation plan submission's motor vehicle emissions budget(s) inadequate for transportation conformity purposes after EPA had previously found the budget(s) adequate, and conformity of a transportation plan or TIP has already been determined by DOT using the budget(s), the conformity determination will remain valid. Projects included in that transportation plan or TIP could still satisfy sections (14) and (15), which require a currently conforming transportation plan and TIP to be in place at the time of a project's conformity determination and that projects come from a conforming transportation plan and TIP.
4. EPA will not find a motor vehicle emissions budget in a submitted control strategy implementation plan revision or maintenance plan to be adequate for transportation conformity purposes unless the following minimum criteria are satisfied:
  - A. The submitted control strategy implementation plan revision or maintenance plan was endorsed by the governor (or his or her designee) and was subject to a state public hearing;
  - B. Before the control strategy implementation plan or maintenance plan was submitted to EPA, consultation among federal, state, and local agencies occurred; full implementation plan documentation was provided to EPA; and EPA's stated concerns, if any, were addressed;

- C. The motor vehicle emissions budget(s) is clearly identified and precisely quantified;
  - D. The motor vehicle emissions budget(s), when considered together with all other emissions sources, is consistent with applicable requirements for reasonable further progress, attainment, or maintenance (whichever is relevant to the given implementation plan submission);
  - E. The motor vehicle emissions budget(s) is consistent with and clearly related to the emissions inventory and the control measures in the submitted control strategy implementation plan revision or maintenance plan; and
  - F. Revisions to previously submitted control strategy implementation plans or maintenance plans explain and document any changes to previously submitted budgets and control measures; impacts on point and area source emissions; any changes to established safety margins (see section (1) for definition); and reasons for the changes (including the basis for any changes related to emission factors or estimates of vehicle miles traveled).
- 5. Before determining the adequacy of a submitted motor vehicle emissions budget, EPA will review the state's compilation of public comments and response to comments that are required to be submitted with any implementation plan. EPA will document its consideration of such comments and responses in a letter to the state indicating the adequacy of the submitted motor vehicle emissions budget.
  - 6. When the motor vehicle emissions budget(s) used to satisfy the requirements of this section are established by an implementation plan submittal that has not yet been approved or disapproved by EPA, the MPO and DOT's conformity determinations will be deemed to be a statement that the MPO and DOT are not aware of any information that would indicate that emissions consistent with the motor vehicle emissions budget will cause or contribute to any new violation of any standard; increase the frequency or severity of any existing violation of any standard; or delay timely attainment of any standard or any required interim emission reductions or other milestones.
- (F) Adequacy review process for implementation plan submissions. EPA will use the procedure listed in paragraph (F)1. or (F)2. of this section to review the adequacy of an implementation plan submission—
- 1. When EPA reviews the adequacy of an implementation plan submission prior to EPA's final action on the implementation plan—
    - A. EPA will notify the public through EPA's website when EPA receives an implementation plan submission that will be reviewed for adequacy.

- B. The public will have a minimum of thirty (30) days to comment on the adequacy of the implementation plan submission. If the complete implementation plan is not accessible electronically through the Internet and a copy is requested within fifteen (15) days of the date of the website notice, the comment period will be extended for thirty (30) days from the date that a copy of the implementation plan is mailed.
- C. After the public comment period closes, EPA will inform the state in writing whether EPA has found the submission adequate or inadequate for use in transportation conformity, including response to any comments submitted directly and review of comments submitted through the state process, or EPA will include the determination of adequacy or inadequacy in a proposed or final action approving or disapproving the implementation plan under subparagraph (F)2.C. of this section.
- D. EPA will establish a *Federal Register* notice to inform the public of EPA's finding. If EPA finds the submission adequate, the effective date of this finding will be fifteen (15) days from the date the notice is published as established in the *Federal Register* notice, unless EPA is taking a final approval action on the SIP as described in subparagraph (F)2.C. of this section.
- E. EPA will announce whether the implementation plan submission is adequate or inadequate for use in transportation conformity on EPA's website. The website will also include EPA's response to comments if any comments were received during the public comment period.
- F. If after EPA has found a submission adequate, EPA has cause to reconsider this finding, EPA will repeat actions described in subparagraphs (F)1.A. through E. or paragraph (F)2. of this section unless EPA determines that there is no need for additional public comment given the deficiencies of the implementation plan submission. In all cases where EPA reverses its previous finding to a finding of inadequacy under paragraph (F)1. of this section, such a finding will become effective immediately upon the date of EPA's letter to the State.
- G. If after EPA has found a submission inadequate, EPA has cause to reconsider the adequacy of that budget, EPA will repeat actions described in subparagraphs (F)1.A. through E. or paragraph (F)2. of this section.



2. When EPA reviews the adequacy of an implementation plan submission simultaneously with EPA's approval or disapproval of the implementation plan—
  - A. EPA's *Federal Register* notice of proposed or direct final rulemaking will serve to notify the public that EPA will be reviewing the implementation plan submission for adequacy.
  - B. The publication of the notice of proposed rulemaking will start a public comment period of at least thirty (30) days.
  - C. EPA will indicate whether the implementation plan submission is adequate and thus can be used for conformity either in EPA's final rulemaking or through the process described in subparagraphs (F)1.C. through E. of this section. If EPA makes an adequacy finding through a final rulemaking that approves the implementation plan submission, such a finding will become effective upon the publication of EPA's approval in the *Federal Register*, or upon the effective date of EPA's approval if such action is conducted through direct final rulemaking. EPA will respond to comments received directly and review comments submitted through the state process and include the response to comments in the applicable docket.

(19) Criteria and Procedures—Interim Emissions in Areas without Motor Vehicle Emissions Budgets.

- (A) The transportation plan, TIP, and project not from a conforming transportation plan and TIP satisfy the interim emissions test(s) as described in subsections (9)(C) through (L). This criterion applies to the net effect of the action (transportation plan, TIP, or project not from a conforming transportation plan and TIP) on motor vehicle emissions from the entire transportation system.
- (B) Ozone areas. The requirements of this paragraph apply to all 1-hour ozone and 8-hour ozone NAAQS areas, except for certain requirements as indicated. This criterion may be met—
  1. In moderate and above ozone nonattainment areas that are subject to the reasonable further progress requirements of CAA section 182(b)(1) if a regional emissions analysis that satisfies the requirements of section (22) and subsections (G) through (J) of this section demonstrates that for each analysis year and for each of the pollutants described in subsection (F) of this section—
    - A. The emissions predicted in the “Action” scenario are less than the emissions predicted in the “Baseline” scenario, and this can be reasonably expected to be true in the periods between the analysis years; and

- B. The emissions predicted in the “Action” scenario are lower than—
          - (I) 1990 emissions by any nonzero amount, in areas for the one (1)-hour ozone NAAQS as described in subsection (9)(C); or
          - (II) 2002 emissions by any nonzero amount, in areas for the eight (8)-hour ozone NAAQS as described in subsections (9)(D) and (E).
  - 2. In marginal and below ozone nonattainment areas and other ozone nonattainment areas that are not subject to the reasonable further progress requirements of CAA section 182(b)(1) if a regional emissions analysis that satisfies the requirements of section (22) and subsections (G) through (J) of this section demonstrates that for each analysis year and for each of the pollutants described in subsection (F) of this section—
    - A. The emissions predicted in the “Action” scenario are not greater than the emissions predicted in the “Baseline” scenario, and this can be reasonably expected to be true in the periods between the analysis years; or
    - B. The emissions predicted in the “Action” scenario are not greater than—
      - (I) 1990 emissions, in areas for the one (1)-hour ozone NAAQS as described in subsection (9)(C); or
      - (II) 2002 emissions, in areas for the eight (8)-hour ozone NAAQS as described in subsections (9)(D) and (E).
- (C) CO areas. This criterion may be met—
- 1. In moderate areas with design value greater than 12.7 ppm and serious CO nonattainment areas that are subject to CAA section 187(a)(7) if a regional emissions analysis that satisfies the requirements of section (22) and subsections (G) through (J) of this section demonstrates that for each analysis year and for each of the pollutants described in subsection (F) of this section—
    - A. The emissions predicted in the “Action” scenario are less than the emissions predicted in the “Baseline” scenario, and this can be reasonably expected to be true in the periods between the analysis years; and
    - B. The emissions predicted in the “Action” scenario are lower than 1990 emissions by any nonzero amount.
  - 2. In moderate areas with design value less than 12.7 ppm and not classified CO nonattainment areas if a regional emissions analysis that satisfies the requirements of section (22) and subsections (G) through (J) of this section demonstrates that for each analysis year and for each of the pollutants described in subsection (F) of this section—

- A. The emissions predicted in the “Action” scenario are not greater than the emissions predicted in the “Baseline” scenario, and this can be reasonably expected to be true in the periods between the analysis years; or
  - B. The emissions predicted in the “Action” scenario are not greater than 1990 emissions.
- (D) PM<sub>10</sub> and NO<sub>2</sub> areas. This criterion may be met in PM<sub>10</sub> and NO<sub>2</sub> nonattainment areas a regional emissions analysis that satisfies the requirements of section (22) and subsections (G) and (J) of this section demonstrates that for each analysis year and for each of the pollutants described in subsection (F) of this section, one (1) of the following requirements is met—
  - 1. The emissions predicted in the “Action” scenario are not greater than the emissions predicted in the “Baseline” scenario, and this can be reasonably expected to be true in the periods between the analysis years; or
  - 2. The emissions predicted in the “Action” scenario are not greater than baseline emissions. Baseline emissions are those estimated to have occurred during calendar year 1990, unless a conformity plan defines the baseline emissions for a PM<sub>10</sub> area to be those occurring in a different calendar year for which a baseline emissions inventory was developed for the purpose of developing a control strategy implementation plan.
- (E) PM<sub>2.5</sub> areas. This criterion may be met in PM<sub>2.5</sub> nonattainment areas if a regional emissions analysis that satisfies the requirements of section (22) and subsections (G) and (J) of this section demonstrates that for each analysis year and for each of the pollutants described in paragraph (F) of this section, one of the following requirements is met—
  - 1. The emissions predicted in the “Action” scenario are not greater than the emissions predicted in the “Baseline” scenario, and this can be reasonably expected to be true in the periods between the analysis years; or
  - 2. The emissions predicted in the “Action” scenario are not greater than 2002 emissions.
- (F) Pollutants. The regional emissions analysis must be performed for the following pollutants:
  - 1. VOC in ozone areas;
  - 2. NO<sub>x</sub> in ozone areas, unless the EPA administrator determines that additional reductions of NO<sub>x</sub> would not contribute to attainment;
  - 3. CO in CO areas;
  - 4. PM<sub>10</sub> in PM<sub>10</sub> areas;
  - 5. VOC and/or NO<sub>x</sub> in PM<sub>10</sub> areas if the EPA regional administrator or the director of the state air agency has made a finding that one or both of such precursor emissions from within the area are a

significant contributor to the PM<sub>10</sub> nonattainment problem and has so notified the MPO and DOT;

6. NO<sub>x</sub> in NO<sub>2</sub> areas;
7. PM<sub>2.5</sub> in PM<sub>2.5</sub> areas; and
8. Re-entrained road dust in PM<sub>2.5</sub> areas only if the EPA regional administrator or the director of the state air agency has made a finding that emissions from re-entrained road dust within the area are a significant contributor to the PM<sub>2.5</sub> nonattainment problem and has so notified the MPO and DOT.

(G) Analysis years.

1. The regional emissions analysis must be performed for analysis years that are no more than ten (10) years apart. The first analysis year must be no more than five (5) years beyond the year in which the conformity determination is being made. The last year of transportation plan's forecast period must also be an analysis year.
2. For areas using subparagraphs (B)2.A., (C)2.A. and paragraphs (D)1. and (E)1. of this section, a regional emissions analysis that satisfies the requirements of section (22) and subsections (G) and (J) of this section would not be required for analysis years in which the transportation projects and planning assumption in the "Action" and "Baseline" scenarios are exactly the same. In such a case, subsection (A) of this section can be satisfied by documenting that the transportation projects and planning assumptions in both scenarios are exactly the same, and consequently, the emissions predicted in the "Action" scenario are not greater than the emissions predicted in the "Baseline" scenario for such analysis years.

(H) "Baseline" scenario. The regional emissions analysis required by subsections (B) through (E) of this section must estimate the emissions that would result from the "Baseline" scenario in each analysis year. The "Baseline" scenario must be defined for each of the analysis years. The "Baseline" scenario is the future transportation system that will result from current programs, including the following (except that exempt projects listed in section (26) and projects exempt from regional emissions analysis as listed in section (27) need not be explicitly considered):

1. All in-place regionally significant highway and transit facilities, services and activities;
2. All ongoing travel demand management or transportation system management activities; and
3. Completion of all regionally significant projects, regardless of funding source, which are currently under construction or are undergoing right-of-way acquisition (except for hardship acquisition and protective buying); come from the first year of the previously conforming transportation plan and/or TIP; or have completed the NEPA process.

- (I) “Action” scenario. The regional emissions analysis required by subsections (B) through (E) of this section must estimate the emissions that would result from the “Action” scenario in each analysis year. The “Action” scenario must be defined for each of the analysis years. The “Action” scenario is the transportation system that would result from the implementation of the proposed action (transportation plan, TIP, or project not from a conforming transportation plan and TIP) and all other expected regionally significant projects in the nonattainment area. The “Action” scenario must include the following (except that exempt projects listed in section (26) and projects exempt from regional emissions analysis as listed in section (27) need not be explicitly considered):
1. All facilities, services, and activities in the “Baseline” scenario;
  2. Completion of all TCMs and regionally significant projects (including facilities, services, and activities) specifically identified in the proposed transportation plan which will be operational or in effect in the analysis year, except that regulatory TCMs may not be assumed to begin at a future time unless the regulation is already adopted by the enforcing jurisdiction or the TCM is identified in the applicable implementation plan;
  3. All travel demand management programs and transportation system management activities known to the MPO, but not included in the applicable implementation plan or utilizing any federal funding or approval, which have been fully adopted and/or funded by the enforcing jurisdiction or sponsoring agency since the last conformity determination;
  4. The incremental effects of any travel demand management programs and transportation system management activities known to the MPO, but not included in the applicable implementation plan or utilizing any federal funding or approval, which were adopted and/or funded prior to the date of the last conformity determination, but which have been modified since then to be more stringent or effective;
  5. Completion of all expected regionally significant highway and transit projects which are not from a conforming transportation plan and TIP; and
  6. Completion of all expected regionally significant non-FHWA/FTA highway and transit projects that have clear funding sources and commitments leading toward their implementation and completion by the analysis year.
- (J) Projects not from a conforming transportation plan and TIP. For the regional emissions analysis required by subsections (B) through (E) of this section, if the project which is not from a conforming transportation plan and TIP is a modification of a project currently in the plan or TIP, the “Baseline” scenario must include the project with its original design concept and scope, and the

“Action” scenario must include the project with its new design concept and scope.

(20) Consequences of Controlled Strategy Implementation Plan Failures.

(A) Disapprovals.

1. If EPA disapproves any submitted control strategy implementation plan revision (with or without a protective finding) the conformity status of the transportation plan and TIP shall lapse on the date that highway sanctions as a result of the disapproval are imposed on the nonattainment area under section 179(b)(1) of the CAA. No new transportation plan, TIP, or project may be found to conform until another control strategy implementation plan revision fulfilling the same CAA requirements is submitted and conformity to this submission is determined.
2. If EPA disapproves a submitted control strategy implementation plan revision without making a protective finding, only projects in the first three (3) years of the currently conforming transportation plan and TIP may be found to conform. This means that beginning on the effective date of disapproval without a protective finding, no transportation plan, TIP, or project not in the first three (3) years of the currently conforming transportation plan and TIP may be found to conform until another control strategy implementation plan revision fulfilling the same CAA requirements is submitted, EPA finds its motor vehicle emissions budget(s) adequate pursuant to section (18) of this rule or approves the submission, and conformity to the implementation plan revision is determined.
3. In disapproving a control strategy implementation plan revision, EPA would give a protective finding where a submitted plan contains adopted control measures or written commitments to adopt enforceable control measures that fully satisfy the emissions reductions requirements relevant to the statutory provision for which the implementation plan revision was submitted, such as reasonable further progress or attainment.

(B) Failure to Submit and Incompleteness. In areas where EPA notifies the state, MPO, and DOT of the state's failure to submit a control strategy implementation plan or submission of an incomplete control strategy implementation plan revision, (either of which initiates the sanction process under CAA section 179 or 110(m)), the conformity status of the transportation plan and TIP shall lapse on the date that highway sanctions are imposed on the nonattainment area for such failure under section 179(b)(1) of the CAA, unless the failure has been remedied and acknowledged by a letter from the EPA regional administrator.

(C) Federal Implementation Plans. If EPA promulgates a federal implementation plan that contains motor vehicle emissions budget(s) as a result of a state

failure, the conformity lapse imposed by this section because of that state failure is removed.

- (21) Requirements for Adoption or Approval of Projects by Other Recipients of Funds Designated Under Title 23 U.S.C. or Title 49 U.S.C..
- (A) Except as provided in subsection (B) of this section, no recipient of Federal funds designated under Title 23 U.S.C. or Title 49 U.S.C. shall adopt or approve a regionally significant highway or transit project, regardless of funding source, unless the recipient finds that the requirements of one (1) of the following are met:
1. The project comes from the currently conforming transportation plan and TIP, and the project's design concept and scope have not changed significantly from those which were included in the regional emissions analysis for that transportation plan and TIP;
  2. The project is included in the regional emissions analysis for the currently conforming transportation plan and TIP conformity determination (even if the project is not strictly included in the transportation plan or TIP for the purpose of MPO project selection or endorsement) and the project's design concept and scope have not changed significantly from those which were included in the regional emissions analysis; or
  3. A new regional emissions analysis including the project and the currently conforming transportation plan and TIP demonstrates that the transportation plan and TIP would still conform if the project were implemented (consistent with the requirements of sections (18) and/or (19) for a project not from a conforming transportation plan and TIP).
- (B) In isolated rural nonattainment and maintenance areas subject to subsection (9)(A), no recipient of federal funds designated under Title 23 U.S.C. or Title 49 U.S.C. shall adopt or approve a regionally significant highway or transit project, regardless of funding source, unless the recipient finds that the requirements of one (1) of the following are met:
1. The project was included in the regional emissions analysis supporting the most recent conformity determination that reflects the portion of the statewide transportation plan and statewide TIP which are in the nonattainment or maintenance area, and the project's design concept and scope has not changed significantly; or
  2. A new regional emissions analysis including the project and all other regionally significant projects expected in the nonattainment or maintenance area demonstrates that those projects in the statewide transportation plan and statewide TIP which are in the nonattainment or maintenance area would still conform if the project was implemented (consistent with the requirements of sections (18) and/or (19) for projects not from a conforming transportation plan and TIP).

- (C) Notwithstanding subsections (A) and (B) of this section, in nonattainment and maintenance areas subject to subsections (9)(J) or (K) for a given pollutant/precursor and NAAQS, no recipient of federal funds designated under Title 23 U.S.C. or Title 49 U.S.C. shall adopt or approve a regionally significant highway or transit project, regardless of funding source, unless the recipient finds that the requirements of one (1) of the following are met for that pollutant/precursor and NAAQS:
1. The project was included in the most recent conformity determination for the transportation plan and TIP and the project's design concept and scope has not changed significantly; or
  2. The project was included in the most recent conformity determination that reflects the portion of the statewide transportation plan and statewide TIP which are in the nonattainment or maintenance area, and the project's design concept and scope has not changed significantly.

(22) Procedures for Determining Regional Transportation-Related Emissions.

(A) General Requirements.

1. The regional emissions analysis required by section (18) and section (19) of this rule for the transportation plan, TIP, or project not from a conforming plan and TIP must include all regionally significant projects expected in the nonattainment or maintenance area. The analysis shall include FHWA/FTA projects proposed in the transportation plan and TIP and all other regionally significant projects which are disclosed to the MPO as required by section (5) of this rule. Projects which are not regionally significant are not required to be explicitly modeled, but vehicle miles traveled (VMT) from such projects must be estimated in accordance with reasonable professional practice. The effects of TCMs and similar projects that are not regionally significant may also be estimated in accordance with reasonable professional practice.
2. The emissions analysis may not include for emissions reduction credit any TCMs or other measures in the applicable implementation plan which have been delayed beyond the scheduled date(s) until such time as their implementation has been assured. If the measure has been partially implemented and it can be demonstrated that it is providing quantifiable emission reduction benefits, the emissions analysis may include that emissions reduction credit.
3. Emissions reduction credit from projects, programs, or activities which require a regulatory action in order to be implemented may not be included in the emissions analysis unless—
  - A. The regulatory action is already adopted by the enforcing jurisdiction;



- B. The project, program, or activity is included in the applicable implementation plan;
  - C. The control strategy implementation plan submission or maintenance plan submission that establishes the motor vehicle emissions budget(s) for the purposes of section (18) contains a written commitment to the project, program, or activity by the agency with authority to implement it; or
  - D. EPA has approved an opt-in to a federally enforced program, EPA has promulgated the program (if the control program is a federal responsibility, such as tailpipe standards), or the Clean Air Act requires the program without need for individual state action and without any discretionary authority for EPA to set its stringency, delay its effective date, or not implement the program.
4. Notwithstanding paragraph (22)(A)3. of this rule, emission reduction credit from control measures that are not included in the transportation plan and TIP and that do not require a regulatory action in order to be implemented may not be included in the emissions analysis unless the conformity determination includes written commitments to implementation from appropriate entities.
- A. Persons or entities voluntarily committing to control measures must comply with the obligations of such commitments.
  - B. Written commitments to mitigation measures must be obtained prior to a conformity determination, and project sponsors must comply with such commitments.
5. A regional emissions analysis for the purpose of satisfying the requirements of section (19) must make the same assumptions in both the “Baseline” and “Action” scenarios regarding control measures that are external to the transportation system itself, such as vehicle tailpipe or evaporative emission standards, limits on gasoline volatility, vehicle inspection and maintenance programs, and oxygenated or reformulated gasoline or diesel fuel.
6. The ambient temperatures used for the regional emissions analysis shall be consistent with those used to establish emissions budget in the applicable implementation plan. All other factors, for example the fraction of travel in a hot stabilized engine mode, must be consistent with the applicable implementation plan, unless modified after interagency consultation in accordance with subparagraph (5)(C)1.A. to incorporate additional or more geographically specific information or represent a logically estimated trend in such factors beyond the period considered in the applicable implementation plan.
7. Reasonable methods shall be used to estimate nonattainment or maintenance area vehicle miles traveled (VMT) on off-network

roadways within the urban transportation planning area, and on roadways outside the urban transportation planning area.

- (B) Regional emissions analysis in serious, severe, and extreme ozone nonattainment and serious carbon monoxide areas must meet the requirements of paragraphs (B)1. through 3. of this section if their metropolitan planning area contains an urbanized area population over two hundred thousand (200,000).

1. Beginning January 1, 1997, estimates of regional transportation-related emissions used to support conformity determinations must be made at a minimum using network-based travel models according to procedures and methods that are available and in practice and supported by current and available documentation. These procedures, methods, and practices are available from DOT and will be updated periodically. Agencies must discuss these modeling procedures and practices through the interagency consultation process, as required by subparagraph (5)(C)1.A. Network-based travel models must at a minimum satisfy the following requirements—
  - A. Network-based travel models must be validated against observed counts (peak and off-peak, if possible) for base year that is not more than ten (10) years prior to the date of the conformity determination. Model forecasts must be analyzed for reasonableness and compared to historical trends and other factors, and the results must be documented;
  - B. Land use, population, employment, and other network-based travel model assumptions must be documented and based on the best available information;
  - C. Scenarios of land development and use must be consistent with the future transportation system alternatives for which emissions are being estimated. The distribution of employment and residences for different transportation options must be reasonable;
  - D. A capacity-sensitive assignment methodology must be used, and emissions estimates must be based on a methodology which differentiates between peak and off-peak link volumes and speeds and uses of speeds based on final assigned volumes;
  - E. Zone-to-zone travel impedances used to distributive trips between origin and destination pairs must be in reasonable agreement with the travel times that are estimated from final assigned traffic volumes. Where use of transit currently is anticipated to be a significant factor in satisfying transportation demand, these times should also be used for modeling mode splits; and

- F. Network-based travel models must be reasonably sensitive to changes in the time(s), cost(s), and other factors affecting travel choices.
  - 2. Reasonable methods in accordance with good practice must be used to estimate traffic speeds and delays in a manner that is sensitive to the estimated volume of travel on each roadway segment represented in the network-based travel model.
  - 3. Highway Performance Monitoring System (HPMS) estimates of vehicle miles traveled (VMT) shall be considered the primary measure of VMT within the portion of the nonattainment or maintenance area and for the functional classes of roadways included in HPMS, for urban areas which are sampled on a separate urban area basis. For areas with network-based travel models, a factor (or factors) may be developed to reconcile and calibrate the network-based travel model estimates of VMT in the base year of its validation to the HPMS estimates for the same period. These factors may then be applied to model estimates of future VMT. In this factoring process, consideration will be given to differences between HPMS and network-based travel models, such as differences in the facility coverage of the HPMS and the modeled network description. Locally developed count-based programs and other departures from these procedures are permitted subject to the interagency consultation procedures of subparagraph (5)(C)1.A.
- (C) Two (2)-year grace period for regional emissions analysis requirements in certain ozone and CO areas. The requirements of subsection (B) of this section apply to such areas or portions of such areas that have not previously been required to meet these requirements for any existing NAAQS two (2) years from the following:
- 1. The effective date of EPA's reclassification of an ozone or CO nonattainment area that has an urbanized area population greater than two hundred thousand (>200,000) to serious or above;
  - 2. The official notice by the Census Bureau that determines the urbanized area population of a serious or above ozone or CO nonattainment area to be greater than two hundred thousand (>200,000); or
  - 3. The effective date of EPA's action that classifies a newly designated ozone or CO nonattainment area that has an urbanized area population greater than two hundred thousand (>200,000) as serious or above.
- (D) In all areas not otherwise subject to subsection (B) of this section, regional emissions analyses must use those procedure described in subsection (B) of this section if the use of those procedures has been the previous practice of the MPO. Otherwise, areas not subject to subsection (B) of this section may estimate regional emissions using any appropriate methods that account for VMT growth by, for example, extrapolating historical VMT or projecting

future VMT by considering growth in population and historical growth trends for VMT per person. These methods must also consider future economic activity, transit alternatives, and transportation system policies.

(E) PM<sub>10</sub> from Construction-Related Fugitive Dust.

1. For areas in which the implementation plan does not identify construction-related fugitive PM<sub>10</sub> as a contributor to the nonattainment problem, the fugitive PM<sub>10</sub> emissions associated with highway and transit project construction are not required to be considered in the regional emissions analysis.
2. In PM<sub>10</sub> nonattainment and maintenance areas with implementation plans which identify construction-related fugitive PM<sub>10</sub> as a contributor to the nonattainment problem, the regional PM<sub>10</sub> emissions analysis shall consider construction-related fugitive PM<sub>10</sub> and shall account for the level of construction activity, the fugitive PM<sub>10</sub> control measures in the applicable implementation plan, and the dust-producing capacity of the proposed activities.

(F) PM<sub>2.5</sub> from Construction-Related Fugitive Dust.

1. For PM<sub>2.5</sub> areas in which the implementation plan does not identify construction-related fugitive PM<sub>2.5</sub> as a significant contributor to the nonattainment problem, the fugitive PM<sub>2.5</sub> emissions associated with highway and transit project construction are not required to be considered in the regional emissions analysis.
2. In PM<sub>2.5</sub> nonattainment and maintenance areas with implementation plans which identify construction-related fugitive PM<sub>2.5</sub> as a significant contributor to the nonattainment problem, the regional PM<sub>2.5</sub> emissions analysis shall consider construction-related fugitive PM<sub>2.5</sub> and shall account for the level of construction activity, the fugitive PM<sub>2.5</sub> control measures in the applicable implementation plan, and the dust-producing capacity of the proposed activities.

(G) Reliance on Previous Regional Emissions Analysis.

1. Conformity determinations for a new transportation plan and/or TIP may be demonstrated to satisfy the requirements of section (18) Motor Vehicle Emissions Budget or section (19) Interim Emissions in Areas without Motor Vehicle Emissions Budgets of this rule without new regional analysis if the previous regional emissions analysis also applies to the new plan and/or TIP. This requires a demonstration that—
  - A. The new plan and/or TIP contains all projects which must be started in the plan and TIP's time frames in order to achieve the highway and transit system envisioned by the transportation plan;
  - B. All plan and TIP projects which are regionally significant are included in the transportation plan with design concept and scope adequate to determine their contribution to the

- transportation plan's and/or TIP's regional emissions at the time of the previous conformity determination;
    - C. The design concept and scope of each regionally significant project in the new plan and/or TIP is not significantly different from that described in the previous transportation plan; and
    - D. The previous regional emissions analysis is consistent with the requirements of section (18) (including that conformity to all currently applicable budgets is demonstrated) and/or section (19), as applicable.
  - 2. A project which is not from a conforming transportation plan and a conforming TIP may be demonstrated to satisfy the requirements of section (18) or section (19) of this rule without additional regional emissions analysis if allocating funds to the project will not delay the implementation of projects in the transportation plan or TIP which are necessary to achieve the highway and transit system envisioned by the transportation plan, the previous regional emissions analysis is still consistent with the requirements of section (18) (including that conformity to all currently applicable budgets is demonstrated) and/or section (19) as applicable, and if the project is either—
    - A. Not regionally significant; or
    - B. Included in the conforming transportation plan (even if it is not specifically included in the latest conforming TIP) with design concept and scope adequate to determine its contribution to the transportation plan's regional emissions at the time of the transportation plan's conformity determination, and the design concept and scope of the project is not significantly different from that described in the transportation plan.
  - 3. A conformity determination that relies on subsection (G) of this section does not satisfy the frequency requirements of subsection (4)(B) or (C).

(23) Procedures for Determining Localized CO and PM<sub>10</sub> Concentrations (Hot-Spot Analysis).

(A) CO Hot-Spot Analysis.

- 1. The demonstrations required by section (16) must be based on quantitative analysis using air quality models, databases, and other requirements specified in 40 CFR part 51, Appendix W (Guideline on Air Quality Models). These procedures shall be used in the following cases, unless different procedures developed through the interagency consultation process required in section (5) and approved by the EPA regional administrator are used:

- A. For projects in or affecting locations, areas, or categories of sites which are identified in the applicable implementation plan as sites of violation or possible violation;
    - B. For projects affecting intersections that are at Level-of-Service D, E, or F, or those that will change to Level-of-Service D, E, or F because of increased traffic volumes related to the project;
    - C. For any project affecting one (1) or more of the top three (3) intersections in the nonattainment or maintenance area with highest traffic volumes, as identified in the applicable implementation plan; and
    - D. For any project affecting one (1) or more of the top three (3) intersections in the nonattainment or maintenance area with the worst level-of-service, as identified in the applicable implementation plan.
  - 2. In cases other than those described in paragraph (A)1. of this section, the demonstrations required by section (16) may be based on either—
    - A. Quantitative methods that represent reasonable and common professional practice; or
    - B. A quantitative consideration of local factors, if this can provide a clear demonstration that the requirements of section (16) are met.
- (B)  $PM_{10}$  Hot-Spot Analysis.
- 4. The hot-spot demonstration required by section (16) must be based on quantitative analysis methods for the following types of projects:
    - D. Projects which are located at sites at which violations have been verified by monitoring;
    - E. Projects which are located at sites which have vehicle and roadway emission and dispersion characteristics that are essentially identical to those of sites with verified violations (including sites near one at which a violation has been monitored); and
    - F. New or expanded bus and rail terminals and transfer points which increase the number of diesel vehicles congregating at a single location.
  - 5. Where quantitative analysis methods are not required, the demonstration required by section (16) may be based on a qualitative consideration of local factors.
  - 6. The identification of the sites described in subparagraphs (B)1. A. and B. of this section, and other cases where quantitative methods are appropriate, shall be determined through the interagency consultation process required in section (5). DOT may choose to make a categorical conformity determination on bus and rail

terminals or transfer points based on appropriate modeling of various terminal sizes, configurations, and activity levels.

4. The requirements for quantitative analysis contained in subsection (23)(B) will not take effect until EPA releases modeling guidance on this subject and announces in the *Federal Register* that these requirements are in effect.

(C) General Requirements.

1. Estimated pollutant concentrations must be based on the total emissions burden which may result from the implementation of the project, summed together with future background concentrations. The total concentrations must be estimated and analyzed at appropriate receptor locations in the area substantially affected by the project.
2. CO hot-spot analyses must include the entire project, and may be performed only after the major design features which will significantly impact CO concentrations have been identified. The future background concentration should be estimated by multiplying current background by the ratio of future to current traffic and the ratio of future to current emission factors.
3. Hot-spot analysis assumptions must be consistent with those in the regional emissions analysis for those inputs which are required for both analyses.
4. CO mitigation or control measures shall be assumed in the hot-spot analysis only where there are written commitments from the project sponsor and/or operator to implement such measures, as required by subsection (25)(A).
5. CO hot-spot analyses are not required to consider construction-related activities which cause temporary increases in emissions. Each site which is affected by construction-related activities shall be considered separately, using established "Guideline" methods. Temporary increases are defined as those which occur only during the construction phase and last five (5) years or less at any individual site.

(24) Using the Motor Vehicle Emissions Budget in the Applicable Implementation Plan (or Implementation Plan Submission).

- (A) In interpreting an applicable implementation plan (or implementation plan submission) with respect to its motor vehicle emissions budget(s), the MPO and DOT may not infer additions to the budget(s) that are not explicitly intended by the implementation plan (or submission). Unless the implementation plan explicitly quantifies the amount by which motor vehicle emissions could be higher while still allowing a demonstration of compliance with the milestone, attainment, or maintenance requirement and explicitly states an intent that some or all of this additional amount should be available to the MPO and DOT in the emission budget for conformity purposes, the

MPO may not interpret the budget to be higher than the implementation plan's estimate of future emissions. This applies in particular to applicable implementation plans (or submissions) which demonstrate that after implementation of control measures in the implementation plan—

1. Emissions from all sources will be less than the total emissions that would be consistent with a required demonstration of an emissions reduction milestone;
  2. Emissions from all sources will result in achieving attainment prior to the attainment deadline and/or ambient concentrations in the attainment deadline year will be lower than needed to demonstrate attainment; or
  3. Emissions will be lower than needed to provide for continued maintenance.
- (B) A conformity demonstration shall not trade emissions among budgets which the applicable implementation plan (or implementation plan submission) allocates for different pollutants or precursors, or among budgets allocated to motor vehicles and other sources, unless the implementation plan establishes appropriate mechanisms for such trades.
- (C) If the applicable implementation plan (or implementation plan submission) estimates future emissions by geographic subarea of the nonattainment area, the MPO and DOT are not required to consider this to establish subarea budgets, unless the applicable implementation plan (or implementation plan submission) explicitly indicates an intent to create such subarea budgets for the purposes of conformity.
- (D) If a nonattainment area includes more than one MPO, the implementation plan may establish motor vehicle emissions budgets for each MPO, or else the MPOs must collectively make a conformity determination for the entire nonattainment area.

(25) Enforceability of Design Concept and Scope and Project-Level Mitigation and Control Measures.

- (A) Prior to determining that a transportation project is in conformity, the MPO, other recipient of funds designated under Title 23 U.S.C. or Title 49 U.S.C., FHWA, or FTA must obtain from the project sponsor and/or operator written commitments to implement in the construction of the project and operation of the resulting facility or service any project-level mitigation or control measures which are identified as conditions for NEPA process completion with respect to local CO impacts. Before a conformity determination is made, written commitments must also be obtained for project-level mitigation or control measures which are conditions for making conformity determinations for a transportation plan or TIP and are included in the project design concept and scope which is used in the regional emissions analysis required by sections (18) Motor Vehicle Emissions Budget and (19) Interim Emissions in Areas Without Motor Vehicle Emissions Budgets or used in the project-level hot-spot analysis required by section (16).



- (B) Project sponsors voluntarily committing to mitigation measures to facilitate positive conformity determinations must comply with the obligations of such commitments.
- (C) Written commitments to mitigation measures must be obtained prior to a conformity determination, and project sponsors must comply with such commitments.
- (D) If the MPO or project sponsor believes the mitigation or control measure is no longer necessary for conformity, the project sponsor or operator may be relieved of its obligation to implement the mitigation or control measure if it can demonstrate that the applicable hot-spot requirements of section (16), emission budget requirements of section (18) and interim emissions requirements of section (19) are satisfied without the mitigation or control measure, and so notifies the agencies involved in the interagency consultation process required under section (5). The MPO and DOT must find that the transportation plan and TIP still satisfy applicable requirements of sections (18) and/or (19) and that the project still satisfies the requirements of section (16) and therefore that the conformity determinations for the transportation plan, TIP, and project are still valid. This finding is subject to the applicable public consultation requirements in subsection (5)(F) for conformity determination for projects.
- (26) Exempt Projects. Notwithstanding the other requirements of this rule, highway and transit projects of the types listed in Table 2 of this section are exempt from the requirement to determine conformity. Such projects may proceed toward implementation even in the absence of a conforming transportation plan and TIP. A particular action of the type listed in Table 2 of this section is not exempt if the MPO in consultation with other agencies (see subparagraph (5)(C)1.C.), the EPA, and the FHWA (in the case of a highway project) or the FTA (in the case of a transit project) concur that it has potentially adverse emissions impacts for any reason. The state and the MPO must ensure that exempt projects do not interfere with TCM implementation. Table 2 follows:

**Table 2—Exempt Projects**

**Safety**

Railroad/highway crossing  
Hazard elimination program  
Safer nonfederal-aid system roads  
Shoulder improvements  
Increasing sight distance  
Safety improvement program  
Traffic control devices and operating assistance other than signalization projects  
Railroad/highway crossing warning devices  
Guardrails, median barriers, crash cushions

Pavement resurfacing or rehabilitation  
Pavement marking demonstration  
Emergency relief (23 U.S.C. 125)  
Fencing  
Skid treatments  
Safety roadside rest areas  
Adding medians  
Truck climbing lanes outside the urbanized area  
Lighting improvements  
Widening narrow pavements or reconstructing bridges (no additional travel lanes)  
Emergency truck pullovers

### **Mass Transit**

Operating assistance to transit agencies  
Purchase of support vehicles  
Rehabilitation of transit vehicles<sup>1</sup>  
Purchase of office, shop, and operating equipment for existing facilities  
Purchase of operating equipment for vehicles (e.g., radios, fare boxes, lifts, etc.)  
Construction or renovation of power, signal, and communications systems  
Construction of small passenger shelters and information kiosks  
Reconstruction or renovation of transit buildings and structures (e.g., rail or bus buildings, storage and maintenance facilities, stations, terminals, and ancillary structures)  
Rehabilitation or reconstruction of track structures, track, and trackbed in existing rights-of-way  
Purchase of new buses and rail cars to replace existing vehicles or for minor expansions of the fleet<sup>1</sup>  
Construction of new bus or rail storage/maintenance facilities categorically excluded in 23 CFR part 771

### **Air Quality**

Continuation of ride-sharing and van-pooling promotion activities at current levels  
Bicycle and pedestrian facilities  
  
Other

Specific activities which do not involve or lead directly to construction, such as—  
Planning and technical studies  
Grants for training and research programs  
Planning activities conducted pursuant to  
Titles 23 and 49 U.S.C.  
Federal-aid systems revisions  
Engineering to assess social, economic, and  
environmental effects of the proposed action  
or alternatives to that action  
Noise attenuation  
Emergency or hardship advance land acquisitions (23 CFR 710.503)  
Acquisition of scenic easements  
Plantings, landscaping, etc.  
Sign removal  
Directional and informational signs  
Transportation enhancement activities (except  
rehabilitation and operation of historic  
transportation buildings, structures, or  
facilities)  
Repair of damage caused by natural disasters,  
civil unrest, or terrorist acts, except projects  
involving substantial functional, locational,  
or capacity changes

<sup>1</sup>Note—In PM<sub>10</sub> nonattainment or maintenance areas, such projects are exempt only if they are in compliance with control measures in the applicable implementation plan.

- (27) Projects Exempt From Regional Emissions Analyses. Notwithstanding the other requirements of this rule, highway and transit projects of the types listed in Table 3 of this section are exempt from regional emissions analysis requirements. The local effects of these projects with respect to CO concentrations must be considered to determine if a hot-spot analysis is required prior to making a project-level conformity determination. These projects may then proceed to the project development process even in the absence of a conforming transportation plan and TIP. A particular action of the type listed in Table 3 of this section is not exempt from regional emissions analysis if the MPO in consultation with other agencies (see subparagraph (5)(C)1.C.), the EPA, and the FHWA (in the case of a highway project) or the FTA (in the case of a transit project) concur that it has potential regional impacts for any reason. Table 3 follows:

**Table 3—Projects Exempt from Regional Emissions Analyses**

Intersection channelization projects

Intersection signalization projects at individual intersections

Interchange reconfiguration projects  
Changes in vertical and horizontal alignment  
Truck size and weight inspection stations  
Bus terminals and transfer points

- (28) Traffic Signal Synchronization Projects. Traffic signal synchronization projects may be approved, funded, and implemented without satisfying the requirements of this section. However, all subsequent regional emissions analyses required by sections (18) and (19) for transportation plans, TIPs, or projects not from a conforming plan and TIP must include such regionally significant traffic signal synchronization projects.

# MISSOURI AIR CONSERVATION COMMISSION RULES IN PROGRESS SCHEDULE

Rule Action	Draft Rule Out For For Other Dept Review	Public Notice-Accepting Comments On Draft Rule	File with Secretary of State*	Publish in Missouri Register	Public Hearing	Public Comment Period Closes	Commission Vote On Rule Action	Last Day** to File with Secretary of State*	Rule Effective
<b>Rescission 10 CSR 10-6.240</b> Asbestos Abatement Projects - Registration, Notification and Performance Requirements (Rescinds rule found by court to be void by inception)	11-20-03	N/A	01-12-04	02-17-04	03-25-04	04-01-04	04-29-04	06-16-04	09-30-04
<b>New Rule 10 CSR 10-6.241</b> Asbestos Abatement Projects - Registration, Notification and Performance Requirements (New rule reinstates asbestos inspection fees and requirements consistent with federal requirements)	11-20-03	N/A	01-12-04	02-17-04	03-25-04	04-01-04	04-29-04	06-16-04	09-30-04
<b>Rule Amendment 10 CSR 10-6.250</b> Asbestos Abatement Projects - Certification, Accreditation and Business Exemption Requirements (Updates rule to eliminate forms and correct OSHA and AHERA references)	11-20-03	N/A	01-12-04	02-17-04	03-25-04	04-01-04	04-29-04	06-16-04	09-30-04
<b>Rule Amendment 10 CSR 10-6.065</b> Operating Permits (Implements governor's operating permit streamlining recommendations; addresses regulated community concerns and helps streamline Basic and Intermediate operating permit programs)	03-16-04	09-12-04	12-14-04	01-18-05	03-31-05	04-07-05	04-28-05	06-23-05	09-30-05
<b>Rule Amendment 10 CSR 10-6.110</b> Submission of Emission Data, Emission Fees and Process Information (Sets emission fee required annually by statute)	03-30-04	N/A	05-17-04	06-15-04	07-22-04	07-29-04	08-26-04	10-01-04	12-30-04
<b>Rule Amendment 10 CSR 10-6.060</b> Construction Permits Required (Adopts federal New Source Review program for attainment areas)	03-30-04	N/A	05-17-04	06-15-04	07-22-04	07-29-04	08-26-04	10-01-04	12-30-04
<b>Rule Amendment 10 CSR 10-6.410</b> Emissions Banking and Trading (Prohibits generation of emission reduction credits from pollution control projects excluded in EPA's New Source Review improvement rule)	03-30-04	N/A	05-17-04	06-15-04	07-22-04	07-29-04	08-26-04	10-01-04	12-30-04
<b>Rule Amendment 10 CSR 10-6.120</b> Restriction of Emissions of Lead from Specific Lead Smelter-Refinery Installations (Deletes references to Doe Run, Glover because stack emission and throughput limitations are incorporated in settlement agreement as part of maintenance plan)	04-23-04	N/A	07-01-04	08-02-04	09-30-04	10-07-04	10-28-04	12-22-04	03-30-05

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### MISSOURI AIR CONSERVATION COMMISSION RULES IN PROGRESS SCHEDULE

Rule Action	Draft Rule Out For For Other Dept Review	Public Notice-Accepting Comments On Draft Rule	File with Secretary of State*	Publish in Missouri Register	Public Hearing	Public Comment Period Closes	Commission Vote On Rule Action	Last Day** to File with Secretary of State*	Rule Effective
<b>Rule Amendment 10 CSR 10-6.061</b> Construction Permit Exemptions (Raises insignificant emission levels to allow installations to pursue insignificant modifications to their installation without having to obtain a construction permit)	05-10-04	N/A	07-01-04	08-02-04	09-30-04	10-07-04	10-28-04	12-01-04	02-28-05
<b>Rule Amendment 10 CSR 10-6.070</b> New Source Performance Regulations (Annual updates)	10-22-04	11-07-04	02-17-05	04-01-05	05-26-05	06-02-05	06-30-05	08-15-05	10-30-05
<b>Rule Amendment 10 CSR 10-6.075</b> Maximum Achievable Control Technology Regulations (Annual updates)	10-22-04	11-07-04	02-17-05	04-01-05	05-26-05	06-02-05	06-30-05	08-15-05	10-30-05
<b>Rule Amendment 10 CSR 10-6.080</b> Emission Standards for Hazardous Air Pollutants (Annual updates)	10-22-04	11-07-04	02-17-05	04-01-05	05-26-05	06-02-05	06-30-05	08-15-05	10-30-05
<b>Rule Amendment 10 CSR 10-6.360</b> Control of NOx Emissions From Electric Generating and Non-Electric Generating Boilers (NOx SIP Call)	11-04-04	11-09-04	02-14-05	03-15-05	04-28-05	05-05-05	05-26-05	08-03-05	10-30-05
<b>Rule Amendment 10 CSR 10-6.380</b> Control of NOx Emissions From Portland Cement Kilns (NOx SIP Call)	11-04-04	11-09-04	02-14-05	03-15-05	04-28-05	05-05-05	05-26-05	08-03-05	10-30-05
<b>Rule Amendment 10 CSR 10-6.390</b> Control of NOx Emissions From Large Stationary Internal Combustion Engines (NOx SIP Call)	11-04-04	11-09-04	02-14-05	03-15-05	04-28-05	05-05-05	05-26-05	08-03-05	10-30-05
<b>Rule Amendment 10 CSR 10-2.390</b> Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws (Federal Updates)	12-17-04	01-10-05	04-01-05	05-02-05	06-30-05	07-07-05	07-21-05	09-01-05	11-30-05
<b>Rule Amendment 10 CSR 10-5.480</b> Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws (Federal Updates)	12-17-04	01-10-05	04-01-05	05-02-05	06-30-05	07-07-05	07-21-05	09-01-05	11-30-05
<b>Rule Amendment 10 CSR 10-1.030</b> Air Conservation Commission Appeals and Requests for Hearings (Contains procedural regulations for contested cases heard by commission or assigned to hearing officer by commission)	01-27-05	02-06-05	05-12-05	06-15-05	07-21-05	07-28-05	08-25-05	10-03-05	12-30-05

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# MISSOURI AIR CONSERVATION COMMISSION RULES IN PROGRESS SCHEDULE

Rule Action	Draft Rule Out For For Other Dept Review	Public Notice- Accepting Comments On Draft Rule	File with Secretary of State*	Publish in Missouri Register	Public Hearing	Public Comment Period Closes	Commission Vote On Rule Action	Last Day** to File with Secretary of State*	Rule Effective
<b>Rule Amendment 10 CSR 10-6.110</b> Submission of Emission Data, Emission Fees and Process Information (Sets emission fee required annually by statute and adjust deadline for fee payment)	03-09-05	N/A	05-16-05	06-15-05	07-21-05	07-28-05	08-25-05	10-03-05	12-30-05
<b>Rule Amendment 10 CSR 10-6.010</b> Ambient Air Quality Standards (Updates NAAQS table with new and revised 8-hour ozone and PM2.5 standards)	03-02-05	N/A	07-06-05	08-15-05	09-29-05	10-06-05	10-27-05	12-01-05	02-28-06
<b>Rule Amendment 10 CSR 10-6.020</b> Definitions and Common Reference Tables (Updates federal reference methods for the new PM2.5 standards mandated under CAA of 1997)	03-02-05	N/A	07-06-05	08-15-05	09-29-05	10-06-05	10-27-05	12-01-05	02-28-06
<b>Rule Amendment 10 CSR 10-6.030</b> Sampling Methods for Air Pollution Sources (Updates federal reference methods for new PM2.5 standards mandated under CAA of 1997)	03-02-05	N/A	07-06-05	08-15-05	09-29-05	10-06-05	10-27-05	12-01-05	02-28-06
<b>Rule Amendment 10 CSR 10-6.040</b> Reference Methods (Updates federal reference methods for new PM2.5 standards mandated under CAA of 1997)	03-02-05	N/A	07-06-05	08-15-05	09-29-05	10-06-05	10-27-05	12-01-05	02-28-06

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## 1

Plan Commitment	Plan Submitted to EPA *	EPA's Plan Completion Finding *	EPA's Plan Approval Finding *	Sanction Clock Date **	Sanctions				Comments	
					EPA Impose 2:1 Emissions Offset Ratio (18 mos after clock start)		EPA Withholds Highway Funds (24 mos after clock start)			
					Start	Stop	Start	Stop		
Missouri SIP (Emission Statement Plan)				1/15/93	6/17/94					
	1/4/94	Complete 6/17/94	Approved 2/29/96							
Missouri SIP (St. Louis CO Maintenance Plan)	6/13/97	Complete 7/9/97	1/26/99 - EPA granted direct final approval - effective 3/29/99	No sanction clock applicable to nonclassifiable nonattainment areas.						
Missouri SIP (St. Louis 15% Rate of Progress Plan)				1/14/94	7/13/95					
	1/13/95	7/13/95 - All three submittals found complete.	3/18/96 - EPA proposed partial approval of all plan elements except I/M program. EPA proposed partial disapproval due to failure to implement enhanced I/M program.	Sanction clock will start if EPA publishes limited disapproval of 15% plan.						
	7/11/95									
	7/11/95									
	5/1/97	N/A (This action only addresses approvability)							Plan revised to clarify RVP waiver demonstration.	
11/12/99	Complete 12/22/99	Approved 5/18/00							Plan revised to include I/M and RFG provisions.	
Missouri SIP (St. Louis Contingency Plan)	10/6/97	Complete 10/8/97	4/19/01 - EPA proposed approval  Approved 6/26/01	4/11/96	10/8/97					Public hearing 7/24/97. MACC adopted Plan 8/28/97. MACC adopted Solvent Metal Cleaning rule 2/3/98. On 5/18/00, EPA approved Solvent Metal Cleaning rule as part of 15% RoP plan. Plan includes Tier II and low sulfur gasoline.
Missouri SIP (St. Louis Attainment Demonstration Plan)				6/22/95	4/22/96					
	10/25/95	Complete 4/22/96 Complete 12/22/99	4/17/00 - EPA proposed approval  8/3/00 - EPA reopened public comment period until 8/14/00.							Plan revised to comply w/new ozone standard and transport SIP call. MACC adopted Plan 11/8/99. On 1/19/00, DNR submitted supplemental model report. Additional modeling submitted 6/29/00. Supplemental model report presented at 8/31/00 MACC public hearing. MACC adopted Plan 9/21/00.
	11/12/99									
	11/2/00		4/3/01 - EPA proposed approval  Approved 6/26/01 (Court vacated)							On 6/26/01, EPA withdrew 3/19/01 attainment determination and approved attainment date extension to 11/15/04 and mobile source emissions budgets. On 11/25/02, US 7 <sup>th</sup> Circuit Court of Appeals ruled against EPA as follows: 1) EPA has no authority to grant attainment date extension; 2) 6/26/01 rule extending St. Louis attainment date vacated; 3) directs EPA to promulgate final rule classifying St. Louis as serious ozone nonattainment area.
	2/28/01									
12/13/02		1/30/03 - EPA proposed to approve revised mobile budgets  Approved 5/12/03							MOBILE6 model released 1/29/02. Revised mobile budgets based on Mobile 6 model presented to MACC at public hearings 10/23/02 (St. Louis) and 10/24/02 (Kirksville). MACC adopted Plan 12/5/02.	



**State Air Quality Plans Status Report**  
**July 06, 2005**

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Plan Commitment	Plan Submitted to EPA *	EPA's Plan Completion Finding *	EPA's Plan Approval Finding *	Sanction Clock Date **		Sanctions				Comments
						EPA Impose 2:1 Emissions Offset Ratio (18 mos after clock start)		EPA Withholds Highway Funds (24 mos after clock start)		
				Start	Stop	Start	Stop	Start	Stop	
Missouri SIP (Redesignation Demonstration and Maintenance Plan for Missouri Portion of St. Louis Ozone Nonattainment Area)	12/5/02	12/19/02	1/30/03 - EPA proposed approval of redesignation demonstration and maintenance plan.  Approved 5/12/03							Plan and redesignation request presented to MACC at public hearing 10/23/02 (St. Louis) and 10/24/02 (Kirkville). MACC adopted Plan 12/5/02.
Missouri SIP (St. Louis 8-Hour Ozone/PM2.5 Plan)	8/1/03									In 2000, DNR submitted recommendation on 8-hr nonattainment boundaries. On 6/2/03, EPA published proposed 8-hr Ozone NAAQS rule. On 4/30/04, EPA designated St Louis as Moderate for 8-hr Ozone NAAQS. On 9/23/04, Illinois EPA and Missouri hosted joint mtg to initiate St. Louis 8-hr Ozone/PM2.5 SIP development stakeholder groups. On 1/5/05, EPA published area designations/classifications for Fine Particle NAAQS (St. Louis as Unclassifiable/Attainment). In Mar-05, contract awarded to Environ and Alpine Geophysics (EnvironAG) to assist w/emissions and photochemical modeling. Contract effective date 4/1/05. On 4/15/05, Control Strategy (CS) group met to discuss draft CS whitepapers (prepared by MDNR and Illinois EPA) and process for prioritizing and evaluating strategies. On 4/19/05, Modeling group conference call to discuss emissions modeling issues. On 5/11/05 and 5/24/05, Modeling group conference calls w/ Contractors to discuss onroad mobile/biogenic emissions. On 6/6/05, Modeling group met to discuss progress made on emissions and annual meteorological modeling, and to initiate first round of photochemical modeling runs. On 6/7/05, CS group met to review photochemical modeling results from Midwest Regional Planning Organization (RPO) and discuss evaluation of CS options. On 6/8/05, Modeling group conference call w/Contractors to discuss emissions and meteorological modeling issues. <b>On 6/22/05, Modeling group conference call w/Contractors to discuss emissions issues and initial June 2002 episode photochemical modeling run.</b> <b>Next Modeling group conference call w/Contractors scheduled 7/6/05.</b>
	1/3/05		1/26/05 - EPA approved revised mobile budgets							Plan revised to establish 2007 motor vehicle emissions budgets. Public hearing on proposed budgets 10/28/04. MACC adopted Plan 12/9/04.
Missouri SIP (I/M Plan)				1/15/93	9/1/94					
	9/1/94 (Temporary rule)	Complete 9/1/94 Contingent on Plan revision submittal of permanent rule	3/18/96 - EPA proposed disapproval of I/M Plan (lack of adequate resources to implement) Approved 5/18/00	Sanction clock starts if EPA publishes final disapproval						Contract awarded 2/24/99 and testing begins 4/5/00. <b>Over 4,171,261 vehicles tested since I/M program start.</b> In 2003, General Assembly did not renew appropriations for additional I/M station in South County.
	7/11/95 (Permanent rule)									
	12/9/02	12/30/02	5/12/03 - EPA approved I/M rule revisions - effective 5/12/03						MACC adopted proposal implementing on-board diagnostics (OBD) testing 4/25/02 (advisory-only). MACC adopted rule implementing OBD testing 8/29/02.	
	10/2/03	12/1/03							MACC adopted revised Plan to incorporate rule and legislative changes 8/23/03.	
									Plan being revised to incorporate HB 697 legislative changes. Development of rulemaking started. <b>On 6/6/05, pass/fail OBD tests (&lt;1996 vehicles) started.</b>	

**State Air Quality Plans Status Report**  
**July 06, 2005**

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Plan Commitment	Plan Submitted to EPA *	EPA's Plan Completion Finding *	EPA's Plan Approval Finding *	Sanction Clock Date **		Sanctions				Comments
						EPA Impose 2:1 Emissions Offset Ratio (18 mos after clock start)		EPA Withholds Highway Funds (24 mos after clock start)		
				Start	Stop	Start	Stop	Start	Stop	
Missouri SIP (New Source Review Plan)	4/6/94	Complete 6/17/94	Approved 2/29/96	1/15/93	6/17/94					
Missouri SIP (St. Joseph Light & Power SO <sub>2</sub> Attainment Plan)	7/13/01	Complete 8/15/01	11/15/01 - EPA granted direct final approval - effective 1/14/02							As of 5/25/01, consent agreement between St. Joseph Light & Power and State of Missouri to avoid SO <sub>2</sub> nonattainment designation signed by all parties. Public hearing for consent agreement 2/6/01. MACC adopted 3/29/01.
Missouri SIP (Springfield City Utilities SO <sub>2</sub> Consent Agreement)	1/2/02	Complete 2/1/02	3/25/02 - EPA granted direct final approval - effective 5/24/02							Added consent agreement to incorporate Springfield City Utilities SO <sub>2</sub> control strategy. MACC adopted 12/6/01.
Missouri SIP (St. Louis Transportation Conformity Plan and Rule)	2/14/95	Complete 5/16/95	Approved 2/29/96							Original Plan
										Program working on Plan revision to incorporate six (6) federal transportation conformity rule amendments in one Plan revision. 4 of the 6 federal rule amendments adopted into State rules. EPA combined 5th and 6th amendments into one federal rule amendment published in 7/1/04 Federal Register. State rule amendment developed to incorporate federal changes. Public hearing 6/30/05. MACC adoption scheduled 7/21/05.
Missouri SIP (Kansas City Transportation Conformity Plan and Rule)	2/14/95	Complete 5/16/95	Approved 2/29/96							Original Plan
										Program working on Plan revision to incorporate six (6) federal transportation conformity rule amendments in one Plan revision. 4 of the 6 federal rule amendments adopted into State rules. EPA combined 5th and 6th amendments into one federal rule amendment published in 7/1/04 Federal Register. State rule amendment developed to incorporate federal changes. Public hearing 6/30/05. MACC adoption scheduled 7/21/05.
Missouri SIP (General Conformity Plan and Rule)	2/14/95	Complete 5/16/95	3/11/96 - Conditional approval w/6.300 revisions.							Rule effective date 9/30/96.
	11/20/96	Complete 2/24/97	Approved 7/14/97							
Missouri SIP (NOx RACT Plan)				7/6/94	7/3/96	1/6/96	7/3/96			
	11/30/95 (Waiver)									Submitted waiver application for CAAA Sect. 182(f) 11/30/95. EPA issues transport SIP call 10/10/97.
	4/26/96 (Draft Plan)									NOx RACT Plan identifying NOx RACT as the NOx limitations required for utility boilers under Title IV acid rain program being submitted.
	7/1/96 (Final Plan)	Complete 7/3/96								Public hearing for proposed Plan 5/30/96. MACC adopted proposed Plan 6/27/96.
	11/12/99	Complete 12/22/99	Approved 5/18/00							Incorporates new NOx RACT rule.

# State Air Quality Plans Status Report

July 06, 2005

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Plan Commitment	Plan Submitted to EPA *	EPA's Plan Completion Finding *	EPA's Plan Approval Finding *	Sanction Clock Date **		Sanctions				Comments
						EPA Impose 2:1 Emissions Offset Ratio (18 mos after clock start)		EPA Withholds Highway Funds (24 mos after clock start)		
				Start	Stop	Start	Stop	Start	Stop	
Missouri SIP (NOx Transport Plan)										On 3/3/00, court ruled on NOx SIP call petitions and removes Missouri from NOx SIP call. EPA approved statewide NOx rule 12/28/00. Proposed NOx SIP call for Missouri released 2/23/02. On 4/21/04, EPA finalized Phase II NOx SIP call. Missouri to submit SIP meeting full NOx SIP call by 5/1/05. Utility Workgroup mtgs 10/19/04 (non-electricity generating units-EGUs) and 10/25/04 (EGUs). On 12/8/04, EGU workgroup reached agreement in concept on proposed EGUs and non-EGU boilers rules. On 1/31/05, met w/cement kiln industry and reached consensus on draft cement kiln rule. Public hearing for 3 new NOx rules 4/28/05. MACC adopted rules 5/26/05. Public hearing for NOx SIP call Emissions Budget Demonstration for Missouri 5/26/05. <b>MACC adopted Budget Demonstration 6/30/05.</b>
Missouri SIP (Kansas City 8-Hour Ozone Plan)	8/1/03									In 2000, DNR submitted 8-hr Ozone nonattainment boundaries recommendation. On 6/2/03, EPA published proposed 8-hr Ozone NAAQS rule. MACC adopted boundary recommendation 7/24/03. On 4/30/04, EPA designated Kansas City as Unclassifiable/Attainment for 8-hr Ozone NAAQS. Action effective 6/15/04. On 9/10/04, MARC hosted community workshop to discuss alternative strategies to achieve compliance w/new 8-hr Ozone standard and long-term clean air. On 12/21/04, MDNR submitted letter to EPA to certify monitoring data and to recommend Kansas City be redesignated as Attainment for 8-hr Ozone NAAQS. On 3/29/05, MARC board approved Clean Air Action Plan (CAAP). On 5/3/05, EPA redesignated Kansas City as Attainment for 8-hr Ozone NAAQS. Final rule effective 6/2/05.
Missouri SIP (Kansas City Maintenance Plan)										On 2/5/96, rec'd EPA formal notice of ozone violation (based on EPA quality assured data) in Kansas City metro area which requires contingency measures. Contingency measures recommendations presented at 8/29/96 MACC mtg.
	3/16/98	Complete 5/21/98	1/26/99 - EPA granted approval (RFG incorporated by 2000)  Approved 4/24/02							MACC adopted revised Plan 2/3/98. US Court of Appeals struck down EPA's rule for use of RFG in former nonattainment areas. On 8/22/00, Missouri governor committed to implement 7.0 RVP gasoline, a cold cleaning solvent regulation, and a pressure vacuum relief valve requirement for gasoline dispensing. RVP rule and fuel waiver submitted to EPA on 5/21/01.
	12/12/02	Complete 12/30/02	9/16/03 - EPA proposed approval  Approved 1/13/04							MOBILE6 model released 1/29/02. MACC adopted subsequent 10-yr plan 7/25/02. MACC adopted revised mobile budgets 12/5/02. On 6/5/03, EPA informed public that revised motor vehicle emission budgets are adequate for conformity purposes.
										<b>Plan revision required when 1-hr Ozone standard revoked 6/15/05.</b> On 5/3/05, conference call w/KDHE and MARC to discuss options for addressing 1-hr Ozone Maintenance Plan revocation. 2002 Maintenance Plan revised to include 8-hr Ozone NAAQS and 8-hr Ozone NAAQS contingency measure triggers. Public hearing for 2005 revised Plan 6/30/05. <b>MACC adoption for 2005 revised Plan scheduled 7/21/05.</b> <b>New 8-hr Ozone Maintenance Plan deadline 6/15/07.</b>

**State Air Quality Plans Status Report**  
**July 06, 2005**

5

Plan Commitment	Plan Submitted to EPA *	EPA's Plan Completion Finding *	EPA's Plan Approval Finding *	Sanction Clock Date **		Sanctions				Comments
						EPA Impose 2:1 Emissions Offset Ratio (18 mos after clock start)		EPA Withholds Highway Funds (24 mos after clock start)		
				Start	Stop	Start	Stop	Start	Stop	
Title V Operating Permit Plan (Although not a SIP, plan has similar requirements and impacts)				11/15/93	3/2/95					
	1/13/95	Complete 3/2/95	4/11/96 - EPA granted interim approval of operating permit program Approved 5/14/97							Operating Permit Program effective date 5/13/96. Full approval effective 6/13/97.
	5/6/03	Complete 5/22/03	9/17/03 - EPA granted direct final approval - effective 11/17/03							On 3/25/02, EPA issued Notice of Deficiency for the Operating Permit Program because some State requirements do not comply w/CAA and 40 CFR 70 requirements. MACC adopted Plan revision and rule change 12/5/02.
										Program working on Plan revision to streamline Basic and Intermediate Operating Permits to minimize workload for both industry and program staff while maintaining NAAQS. As result of stakeholder review, MACC approved rule variance while amended rule is being developed. Rule amendment public hearing 3/31/05. MACC adopted rule amendment 4/28/05.
Missouri SIP (Glover Lead Plan - Doe Run/ formerly ASARCO)	8/13/96	Complete 9/18/96	Approved 5/5/97	8/2/93	9/18/96	2/2/95	9/18/96	8/2/95	9/18/96	Air quality monitoring data continues to show Lead standard attainment after controls installed. Amended consent decree filed Sept-99.
	7/31/00	Complete 9/5/00	12/5/01 - EPA proposed approval Approved 4/16/02							Plan revised to change ownership via new consent decree. MACC adopted Plan revision 5/25/00.
	1/26/04		6/30/04 - EPA proposed approval effective 8/30/04 unless adverse comments received by 7/30/04 Direct final rule withdrawn 8/24/04 due to adverse comment 10/29/04 - EPA granted final approval - effective 11/29/04							On 12/1/03, Glover smelter ceased operations w/plans to reopen in future. DNR advised Doe Run that certain emission compliance and maintenance plan reporting requirements could be discontinued until plant restart. DNR discontinued monitoring Jun-04. DNR retains ability to restart monitoring w/ sufficient lead time should plant begin smelting. On 10/29/04, EPA published final rule addressing adverse comment, redesignated area to attainment for Lead and approved Maintenance Plan. Doe Run utilizing unloading building to store and transport concentrate ores.
Missouri SIP (Herculaneum Lead Plan - Doe Run)				1/4/94	12/15/94					
	6/3/91  7/2/93 6/30/94 11/23/94	Complete 7/9/91  Complete 9/30/93 Complete 2/23/94 Complete 12/15/94	Limited approval rec'd 3/6/1992  Full approval on all 4 submittals together on 5/5/95							Area failed to attain Lead standard for 3 <sup>rd</sup> quarter of 1995. All contingency measures implemented and area still failed to attain Lead standard.
	1/9/01	Complete 1/18/01	12/5/01 - EPA proposed approval Approved 4/16/02	7/28/99	1/18/01					On 12/7/00, MACC adopted Plan revision and Lead rule. Court signed Consent Judgement 1/5/01. 1 <sup>st</sup> quarter 2005, Broad Street monitor measured 1.88 ug/m <sup>3</sup> , representing a violation of the Lead NAAQS (1.50 ug/m <sup>3</sup> ). Last failure to attain at this monitor occurred 2 <sup>nd</sup> quarter 2002. On 4/22/05, facility was issued a Notice of Violation. Program working w/Doe Run and EPA to resolve issue. Doe Run requested to amend SIP to allow facility to change baghouse bag vendors to increase bag life, and to reduce maintenance and energy costs. <b>Public hearing on Consent Judgement modification 6/30/05. MACC adoption of modification scheduled 7/21/05.</b>

**State Air Quality Plans Status Report  
July 06, 2005**

6

Plan Commitment	Plan Submitted to EPA *	EPA's Plan Completion Finding *	EPA's Plan Approval Finding *	Sanction Clock Date **		Sanctions				Comments
						EPA Impose 2:1 Emissions Offset Ratio (18 mos after clock start)		EPA Withholds Highway Funds (24 mos after clock start)		
				Start	Stop	Start	Stop	Start	Stop	
Missouri SIP (Doe Run Resource Recycling Division Lead Plan)				1/4/94	12/15/94					
	7/2/93 6/30/94 11/23/94	12/15/94 - All three submittals together found complete	8/4/95 - EPA approved all three submittals together							8 continuous quarters of Lead standard attainment.
	5/12/00	Complete 8/2/00	10/18/00 - EPA granted direct final approval - effective 12/18/00							Facility now referred to as Doe Run Resource Recycling Division located near Bixby, MO.
	4/29/03	Complete 8/13/03	8/24/04 - EPA granted direct final approval - effective 10/25/04							Plan revised updating emission limits to reflect current operations. Public hearing for Plan revision and rule change 10/24/02. MACC adopted Plan 12/5/02.
										Plan to be revised reflecting new PSD permit production conditions. Rec'd Doe Run mining emissions characterization analysis to confirm NAAQS compliance. Awaiting review by Permits Section and Air Quality Analysis Section prior to proceeding w/Plan revision. Visited Site 6/13/05.
Missouri SIP (Update outdated local codes/ ordinances)	3/12/97	Complete 4/24/97	4/22/98 - EPA granted direct final approval - effective 6/22/98	Sanction clock not applicable.						Required to comply w/Title V Program.
	12/22/98	Complete 4/14/99	12/22/99 - EPA granted direct final approval - effective 2/22/00							Updated Kansas City local incinerator codes.
	5/22/00	Complete 6/15/00	10/26/00 - EPA granted direct final approval - effective 12/26/00							Revised to reflect new St. Louis City ordinance 64749.
	10/15/03	11/6/03	12/9/03 - EPA granted direct final approval - effective 2/9/04							Plan revised to reflect new St. Louis City ordinance 65645. Public hearing for Plan revision 7/24/03. MACC adopted Plan 8/28/03.
										Plan being revised to reflect new St. Louis City ordinance.
111(d) Plan-Municipal Solid Waste Landfills	1/26/98		4/24/98 - EPA granted direct final approval - effective 6/23/98							Original Plan
	8/31/00	Complete 9/21/00	11/15/00 - EPA granted direct final approval - effective 1/16/01							Plan revised to reflect recent EPA Emission Guidelines revisions. Public hearing for Plan revision 6/29/00. MACC adopted Plan revision 7/27/00.
111(d) Plan-Hospital, Medical/Infectious Waste Incinerators	6/15/99		8/19/99 - EPA granted direct final approval - effective 10/19/99							Original Plan
	7/13/01		10/21/01 - EPA granted direct final approval - effective 12/11/01							Plan revised to assure consistency with federal definitions. Public hearing for Plan revision 2/6/01. MACC adopted Plan revision 3/29/01.
Missouri SIP (Small Business Stationary Source Technical and Environmental Compliance Assistance Program)	3/10/93	Complete 5/11/93	Approved 3/10/93							This program being implemented and operated by the Outreach and Assistance Center (OAC) environmental assistance office. Awaiting new administration appointments.

**State Air Quality Plans Status Report**  
**July 06, 2005**

7

Plan Commitment	Plan Submitted to EPA *	EPA's Plan Completion Finding *	EPA's Plan Approval Finding *	Sanction Clock Date **		Sanctions				Comments
						EPA Impose 2:1 Emissions Offset Ratio (18 mos after clock start)		EPA Withholds Highway Funds (24 mos after clock start)		
				Start	Stop	Start	Stop	Start	Stop	
Missouri SIP (Revised NAAQS Plan)										<u>Ozone</u> Continuing to monitor 8-hr Ozone NAAQS. On 6/2/03, EPA published proposed 8-hr Ozone NAAQS rule. On 4/30/04, EPA published area designations and classifications for 8-hr Ozone NAAQS (Kansas City as Unclassifiable/Attainment and St. Louis as Moderate). On 9/27/04, submitted latest Clean Air Act Section 110 Plan commitment letter to EPA. On 12/21/04, submitted letter to EPA to certify monitoring data and to recommend Kansas City be designated Attainment for 8-hr Ozone NAAQS. On 5/3/05, EPA redesignated Kansas City as Attainment for 8-hr Ozone NAAQS. Final rule effective 6/2/05. EPA developing Implementation Rule.
									<u>PM2.5</u> Continuing to monitor PM2.5. On 9/27/04, submitted latest Clean Air Act Section 110 Plan commitment letter to EPA. On 1/5/05, EPA published area designations/classifications for Fine Particle NAAQS (St. Louis as Unclassifiable/Attainment). EPA developing Implementation Rule.	
									<u>PM10</u> Area designation recommendation letter due to EPA by 7/17/98. Area designation recommendations submitted 8/12/98. On 2/27/01, US Supreme Court upheld revised NAAQS. On 3/26/02, US Appeals Court (DC Circuit) upheld revised NAAQS. On 9/27/04, submitted latest Clean Air Act Section 110 Plan commitment letter to EPA. EPA developing Implementation Rule.	
Missouri SIP (Regional Haze Plan)										Final federal regional haze rule published 7/1/99. Final rule SIP deadline May 2008. Tasks complete: previous yrs grant applications (EPA approved), RPB structure/budget, by-laws, articles of incorporation, individual workgroup plans, and workgroup chairs guidelines. Leanne Tippet Mosby appointed to Policy Oversight Group. On 11/15/04, Best Available Retrofit Technology (BART) survey sent to industries to determine affected BART sources. 14 sources identified as potential BART eligible (8 of the 14 are electric utilities). For individual workgroup progress, see Web site www.cenrap.org. Attended CENRAP workgroup mtg 2/28/05-3/1/05 and discussed emissions and air quality modeling updates. See Attachment A for schedule timeline.

**State Air Quality Plans Status Report**  
**July 06, 2005**

8

Plan Commitment	Plan Submitted to EPA *	EPA's Plan Completion Finding *	EPA's Plan Approval Finding *	Sanction Clock Date **		Sanctions				Comments
						EPA Impose 2:1 Emissions Offset Ratio (18 mos after clock start)		EPA Withholds Highway Funds (24 mos after clock start)		
				Start	Stop	Start	Stop	Start	Stop	
Missouri SIP (New Source Review (NSR) Reform)										On 12/31/02, EPA published final New Source Review (NSR) Reform rule. In 2003, New York and other states challenged rule objecting to the actual-to-projected-actual emission test rather than the potential-to-potential emissions test. On 6/24/05, US Appeals Court (DC Circuit) ruled to: (1) uphold use of past actual-to-projected future actual emissions, a 10-yr lookback for selecting 2-yr baseline and plantwide applicability limits; (2) vacate the Clean Unit applicability test and the Pollution Control Project exemption; and (3) remand recordkeeping provisions back to EPA for explanation or appropriate alternative. SIP submittal deadline 1/2/06.
Missouri SIP (Clean Air Interstate Rule and Clean Air Mercury Rule)										On 3/15/05, EPA issued the Clean Air Interstate Rule (CAIR) to reduce air pollution that moves across state boundaries. On 3/15/05, EPA issued the Clean Air Mercury Rule to permanently cap and reduce mercury emissions from coal-fired power plants. On 06/27/05, workgroup met to discuss rule implementation issues and model rule.

**Note:** Shaded blocks indicate changes and/or additions from previous report.

\* Failure to meet any of these dates or Plan requirements, starts the 18 month sanction clock.

If requirement is not met within 18 months, the 2:1 emissions offset ratio sanction is imposed.

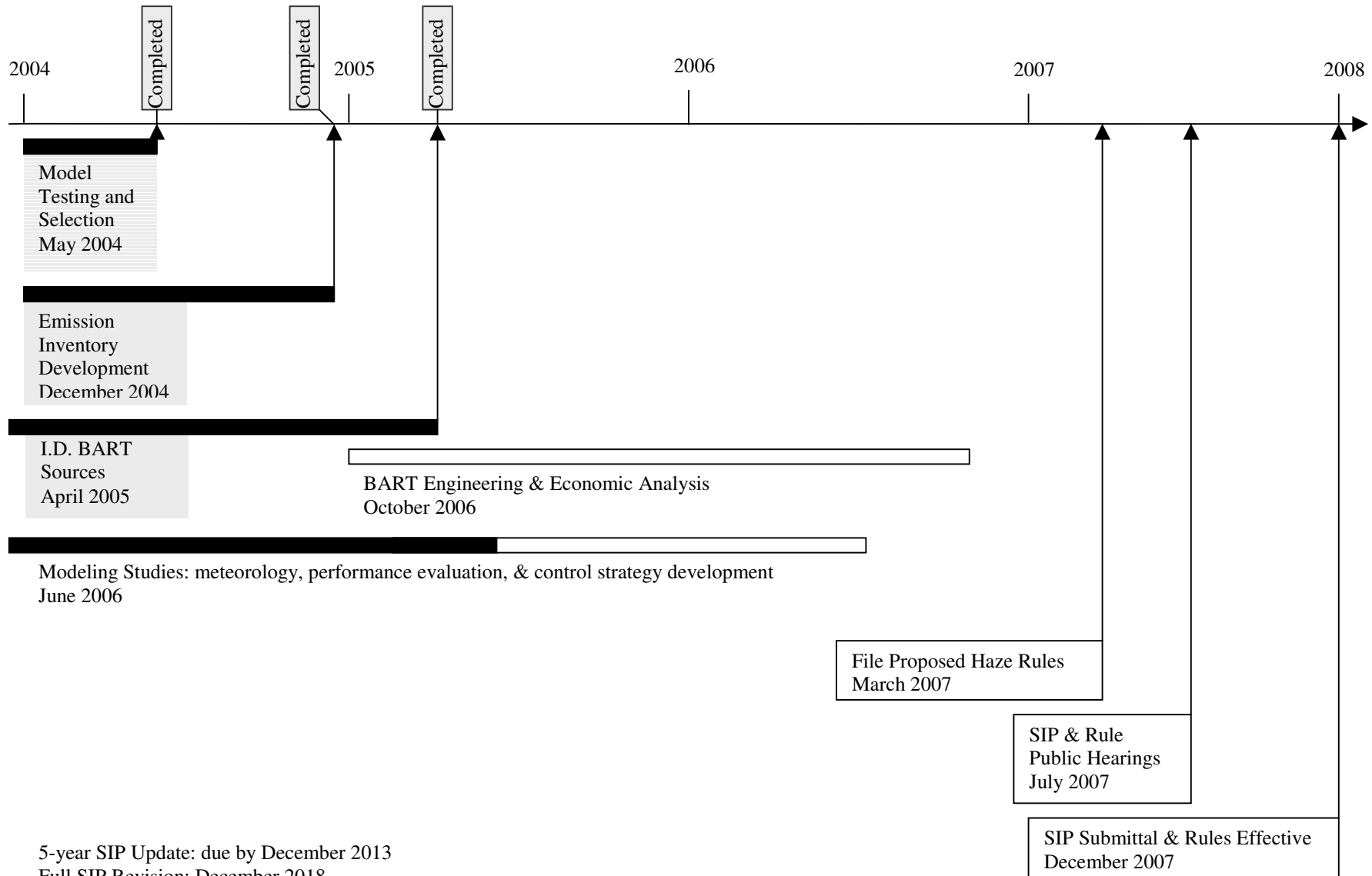
If requirement is still not met within 24 months, the sanction that withholds highway funds is imposed.

\*\* Sanction clock starts with: 1) EPA letter to Governor for failure to submit or finding of incompleteness; or 2) EPA Federal Register final notice of Plan disapproval or nonimplementation.

Sanction clock stops with EPA letter to department director of finding of completeness.

Updated as of 07/06/05 (bdv)

Attachment A  
State Air Quality Status Report  
Regional Haze SIP Timeline



5-year SIP Update: due by December 2013  
Full SIP Revision: December 2018  
Attain Natural Background Condition: 2064





**GATEWAY CLEAN AIR PROGRAM**  
**WEEKLY UPDATE**  
 As of June 11, 2005  
*The goal of the Gateway Clean Air Program is to improve  
 St. Louis air quality.*



	Week of June 6-11, 2005	Since April 5, 2000
<b>Number of passing tests and retests in the enhanced area:</b>	10,518	2,616,990
<b>Number of waivers (enhanced area):</b>	24	32,912
<b>Number of passing tests and retests in Franklin County:</b>	649	249,484
<b>Number of waivers (Franklin Co.):</b>	1	1,496
<b>RapidScreen notices redeemed:</b>	4,912	789,067
<b>Total number of vehicles (passing, waived or RapidScreened) through system:</b>	16,104	3,689,949
<b>RapidScreen notices mailed (through May 2005 registrants):</b>	N/A	1,056,963
<b>Initial failure rate</b> (primary fail only - does not include retest failures); historical AVG represents failures through 12/31/04:	7.99%	11.71%
<b>Number of vehicles passing initial retest (network wide);</b> historical AVG represents info through 12/31/04:	545 (50%)	146, (61%)

<b>Average wait times (enhanced testing area):</b>	6.73 Min. (overall average)	5.03 Min. (75-day average)
West St. Charles County	3.53 Min.	3.39 Min.
East St. Charles County	5.72 Min.	5.37 Min.
North County – Florissant	6.73 Min.	5.92 Min.
West County – Chesterfield	1.85 Min.	1.56 Min.
Mid County – Olivette	11.51 Min.	7.42 Min.
North City – West Florissant	2.47 Min.	2.42 Min.
West County – Manchester	4.62 Min.	3.61 Min.
South City – South Kingshighway	9.64 Min.	6.17 Min.
North Jefferson County – Arnold	7.35 Min.	5.10 Min.
South Jefferson Co. – Herculaneum	3.13 Min.	3.44 Min.

**Average Wait Times at the Enhanced Stations Since Program Start (in minutes): 8.16 Min. Overall AVG.**

	Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.
<b>2005</b>	5	7	5	4	5	5						
<b>2004</b>	7	9	6	5	5	6	7	6	5	5	5	4
<b>2003</b>	5	7	7	8	10	10	11	12	9	7	7	6
<b>2002</b>	10	21	17	12	11	13	14	12	12	8	6	5
<b>2001</b>	9	14	13	10	11	14	14	13	14	10	9	7
<b>2000</b>	N/A	N/A	N/A	11	20	24	12	5	9	7	6	5

**Miscellaneous:**

Damage claims

This week (June 6-11, 2005) damage claims were filed for 0.05% of vehicles tested. Since program start, damage claims have been filed for approximately 0.09% of all vehicles tested.

**For more info:** If there is additional information you would like to see in our weekly Gateway Clean Air Program Update, please contact the Missouri Department of Natural Resources at (314) 416-2115.

**Gateway Clean Air Program Information line - Toll Free: 1-888-748-1AIR (1247)**

**Web site: [www.gatewaycleanair.com](http://www.gatewaycleanair.com)**



**GATEWAY CLEAN AIR PROGRAM**  
**WEEKLY UPDATE**  
 As of June 18, 2005  
*The goal of the Gateway Clean Air Program is to improve  
 St. Louis air quality.*



	Week of June 13-18, 2005	Since April 5, 2000
<b>Number of passing tests and retests in the enhanced area:</b>	10,939	2,627,929
<b>Number of waivers (enhanced area):</b>	18	32,930
<b>Number of passing tests and retests in Franklin County:</b>	716	250,200
<b>Number of waivers (Franklin Co.):</b>	2	1,498
<b>RapidScreen notices redeemed:</b>	3,313	792,380
<b>Total number of vehicles (passing, waived or RapidScreened) through system:</b>	14,988	3,704,937
<b>RapidScreen notices mailed (through May 2005 registrants):</b>	N/A	1,056,963
<b>Initial failure rate</b> (primary fail only - does not include retest failures); historical AVG represents failures through 12/31/04:	7.74%	11.71%
<b>Number of vehicles passing initial retest (network wide);</b> historical AVG represents info through 12/31/04:	704 (53%)	147,906 (61%)

<b>Average wait times (enhanced testing area):</b>	5.55 Min. (overall average)	5.11 Min. (75-day average)
West St. Charles County	2.74 Min.	3.32 Min.
East St. Charles County	3.69 Min.	5.28 Min.
North County – Florissant	7.24 Min.	6.07 Min.
West County – Chesterfield	1.55 Min.	1.54 Min.
Mid County – Olivette	7.25 Min.	7.59 Min.
North City – West Florissant	1.41 Min.	2.31 Min.
West County – Manchester	5.16 Min.	3.69 Min.
South City – South Kingshighway	9.11 Min.	6.37 Min.
North Jefferson County – Arnold	5.42 Min.	5.24 Min.
South Jefferson Co. – Herculaneum	2.29 Min.	3.38 Min.

**Average Wait Times at the Enhanced Stations Since Program Start (in minutes): 8.16 Min. Overall AVG.**

	Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.
<b>2005</b>	5	7	5	4	5	5						
<b>2004</b>	7	9	6	5	5	6	7	6	5	5	5	4
<b>2003</b>	5	7	7	8	10	10	11	12	9	7	7	6
<b>2002</b>	10	21	17	12	11	13	14	12	12	8	6	5
<b>2001</b>	9	14	13	10	11	14	14	13	14	10	9	7
<b>2000</b>	N/A	N/A	N/A	11	20	24	12	5	9	7	6	5

**Miscellaneous:**

Damage claims

This week (June 13-18, 2005) damage claims were filed for 0.07% of vehicles tested. Since program start, damage claims have been filed for approximately 0.09% of all vehicles tested.

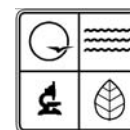
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**GATEWAY CLEAN AIR PROGRAM**  
**WEEKLY UPDATE**  
 As of June 25, 2005  
*The goal of the Gateway Clean Air Program is to improve  
 St. Louis air quality.*



**Missouri  
Department  
of Natural  
Resources**

	Week of June 20-25, 2005	Since April 5, 2000
<b>Number of passing tests and retests in the enhanced area:</b>	11,829	2,639,758
<b>Number of waivers (enhanced area):</b>	23	32,953
<b>Number of passing tests and retests in Franklin County:</b>	727	250,927
<b>Number of waivers (Franklin Co.):</b>	1	1,499
<b>RapidScreen notices redeemed:</b>	2,506	794,886
<b>Total number of vehicles (passing, waived or RapidScreened) through system:</b>	15,086	3,720,023
<b>RapidScreen notices mailed (through May 2005 registrants):</b>	N/A	1,056,963
<b>Initial failure rate</b> (primary fail only - does not include retest failures); historical AVG represents failures through 12/31/04:	7.58%	11.71%
<b>Number of vehicles passing initial retest (network wide);</b> historical AVG represents info through 12/31/04:	746 (53%)	148,652 (61%)

<b>Average wait times (enhanced testing area):</b>	5.65 Min. (overall average)	5.15 Min. (75-day average)
West St. Charles County	4.58 Min.	3.42 Min.
East St. Charles County	3.84 Min.	5.09 Min.
North County – Florissant	6.61 Min.	6.05 Min.
West County – Chesterfield	1.96 Min.	1.59 Min.
Mid County – Olivette	6.81 Min.	7.63 Min.
North City – West Florissant	1.67 Min.	2.26 Min.
West County – Manchester	6.35 Min.	3.88 Min.
South City – South Kingshighway	8.26 Min.	6.47 Min.
North Jefferson County – Arnold	5.41 Min.	5.33 Min.
South Jefferson Co. – Herculaneum	3.98 Min.	3.34 Min.

**Average Wait Times at the Enhanced Stations Since Program Start (in minutes): 8.17 Min. Overall AVG.**

	Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.
<b>2005</b>	5	7	5	4	5	5						
<b>2004</b>	7	9	6	5	5	6	7	6	5	5	5	4
<b>2003</b>	5	7	7	8	10	10	11	12	9	7	7	6
<b>2002</b>	10	21	17	12	11	13	14	12	12	8	6	5
<b>2001</b>	9	14	13	10	11	14	14	13	14	10	9	7
<b>2000</b>	N/A	N/A	N/A	11	20	24	12	5	9	7	6	5

**Miscellaneous:**

Damage claims

This week (June 20-25, 2005) damage claims were filed for 0.14% of vehicles tested. Since program start, damage claims have been filed for approximately 0.09% of all vehicles tested.

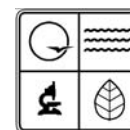
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**GATEWAY CLEAN AIR PROGRAM**  
**WEEKLY UPDATE**  
 As of July 2, 2005  
*The goal of the Gateway Clean Air Program is to improve  
 St. Louis air quality.*



**Missouri  
Department  
of Natural  
Resources**

	Week of June 27-July 2, 2005	Since April 5, 2000
<b>Number of passing tests and retests in the enhanced area:</b>	12,372	2,652,130
<b>Number of waivers (enhanced area):</b>	24	32,977
<b>Number of passing tests and retests in Franklin County:</b>	854	251,781
<b>Number of waivers (Franklin Co.):</b>	1	1,500
<b>RapidScreen notices redeemed:</b>	3,027	797,913
<b>Total number of vehicles (passing, waived or RapidScreened) through system:</b>	16,278	3,736,301
<b>RapidScreen notices mailed (through May 2005 registrants):</b>	N/A	1,056,963
<b>Initial failure rate</b> (primary fail only - does not include retest failures); historical AVG represents failures through 12/31/04:	9.18%	11.71%
<b>Number of vehicles passing initial retest (network wide);</b> historical AVG represents info through 12/31/04:	1,035 (51%)	149,687 (61%)

<b>Average wait times (enhanced testing area):</b>	7.68 Min. (overall average)	5.49 Min. (75-day average)
West St. Charles County	3.92 Min.	3.56 Min.
East St. Charles County	4.76 Min.	5.10 Min.
North County – Florissant	9.45 Min.	6.47 Min.
West County – Chesterfield	1.86 Min.	1.62 Min.
Mid County – Olivette	8.50 Min.	7.89 Min.
North City – West Florissant	3.38 Min.	2.31 Min.
West County – Manchester	6.69 Min.	4.28 Min.
South City – South Kingshighway	15.14 Min.	7.36 Min.
North Jefferson County – Arnold	7.38 Min.	5.65 Min.
South Jefferson Co. – Herculaneum	3.99 Min.	3.40 Min.

**Average Wait Times at the Enhanced Stations Since Program Start (in minutes): 8.18 Min. Overall AVG.**

	Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.
<b>2005</b>	5	7	5	4	5	6	5					
<b>2004</b>	7	9	6	5	5	6	7	6	5	5	5	4
<b>2003</b>	5	7	7	8	10	10	11	12	9	7	7	6
<b>2002</b>	10	21	17	12	11	13	14	12	12	8	6	5
<b>2001</b>	9	14	13	10	11	14	14	13	14	10	9	7
<b>2000</b>	N/A	N/A	N/A	11	20	24	12	5	9	7	6	5

**Miscellaneous:**

Damage claims

This week (June 27-July 2, 2005) damage claims were filed for 0.04% of vehicles tested. Since program start, damage claims have been filed for approximately 0.09% of all vehicles tested.

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**Web site: [www.gatewaycleanair.com](http://www.gatewaycleanair.com)**

## MEMORANDUM

DATE:

TO: Missouri Air Conservation Commission

THROUGH: Daniel R. Schuette, Interim Division Director  
Air and Land Protection Division

FROM: Leanne Tippet Mosby, Director  
Air Pollution Control Program, ALPD

SUBJECT: Attorney General's Office Referral Request – Mr. Ron Sells

On September 9 and September 15, 2004, a representative of the Missouri Department of Natural Resources' Southeast Regional Office (SERO) conducted an air pollution control inspection at Mr. Ron Sells' property located near Two Mile Road, South of Dexter, Stoddard County, Missouri. Mr. Sells contracted with C & M Contractors who excavated soil from the site and moved it to the new Wal-Mart Supercenter, near Dexter, Missouri. The Regional Office received several complaints of large amounts of particulate matter (PM) emitted into the air and settling on adjoining property. This is a violation of Missouri State regulation 10 CSR 10-6.170, "*Restriction of Particulate Matter to the Ambient Air Beyond the Premises of Origin.*" The SERO issued Mr. Ron Sells Notices of Violation (NOV) #3150SE and #3156SE on September 20, 2004 and October 7, 2004, respectively.

A summary of the events are listed as follows:

- On September 3, 2004, the Regional Office received a complaint that excavation of the site was creating a lot of dust in the air. The SERO investigated the property on September 9, 2004 and attempted to contact Mr. Sells between September 9-13, 2004.
- On September 11, 2004, citizens called in complaints to the Stoddard County Sheriff's Department.
- On September 13, 2004, the SERO staff spoke with Mr. Sells and C & M Contractors. During the conversation, both agreed to put gravel down on the haul roads by the day's end and then begin daily water applications for dust control.

- On September 15, 2004, the SERO staff visited the site and found neither the owner nor the operators at the site used gravel or daily water applications for dust control.
- On September 20, 2004, the SERO issued Mr. Sells NOV #3150SE for violation of 10 CSR 10-6.170, "*Restriction of Particulate Matter to the Ambient Air Beyond the Premises of Origin.*"
- On October 1, 2005, the Regional Office received another complaint of PM in the air created by the excavating and transporting of soil.
- On October 4, and October 6, 2004, the SERO staff inspected the site and observed PM in the air and leaving the premises of origin. The staff noticed a "thin" layer of gravel placed on the haul road. However, the inspector did not notice if a water truck was on the site. The prevent dust a water truck must continually work the area and locations where the dump trucks enter and exit the property.
- On October 7, 2004, the Regional Office staff issued NOV #3156SE for violation of 10 CSR 10-6.170, "*Restriction of Particulate Matter to the Ambient Air Beyond the Premises of Origin.*"
- On October 7, 2004, the department's Air Pollution Control Program (APCP) mailed a memorandum to the Attorney General's Office (AGO) requesting the collection of a prior suspended penalty.
- On October 15, 2004, the APCP received an information packet from Ms. Mary Lou Taylor, a private citizen impacted by the dust. The packet contained several pictures of dust from the excavation that had settled on various properties. It also contained a news article from the Dexter Daily Statesman Newspaper asserting citizens were complaining of the dust problems. Further, the information packet also contained 23 signatures agreeing with the complaint.
- On October 28, 2004, the APCP mailed a \$10,000 settlement offer to Mr. Sells.
- On November 2, 2004, Mr. Sells received the settlement offer. After speaking with the SERO and reviewing the file, the APCP communicated with Mr. Sells the willingness to accept \$5,000 paid and \$5,000 suspended on the condition of no other violations for two years. Mr. Sells said he would speak to C & M Contractors and his attorney.
- On November 12, 2004, the APCP received a letter from Mr. Steve Holden (attorney for Mr. Ron Sells). The letter stated the emission of PM was unintentional and avoidance was nearly impossible due to drought conditions suffered in Dexter during the summer. Mr. Holden thought C & M Contractors settled their NOV's with \$1,000. The APCP negotiated a settlement with C & M Contractors of \$500 paid penalty with \$3,500 suspended

on the condition of no other violations for two years. Before these events of PM emitted beyond the premises of origin, C & M Contractors received no other NOV's. In addition to the recent events of PM emitted beyond the premises of origin, Mr. Sells received a prior NOV for illegal open burning. To resolve the open burning NOV, Mr. Sells signed a settlement agreement of \$1,000 paid and \$1,000 suspended for two years upon no further violations. The settlement agreement is still in effect and the department, through the AGO, is currently attempting to collect the \$1,000 due for violation of the settlement agreement.

- On November 16, 2004, the APCP spoke with Mr. Holden and communicated the willingness to settle for \$4,000 paid and \$6,000 suspended on the condition of no other violations for two years or \$6,000 paid with no suspended amount.
- On November 22, 2004, the APCP received a counter offer of \$1,000 from Holden Law Office for NOV #3150SE and NOV #3156SE.
- On December 2, 2004, Mr. Holden contacted the APCP and said Mr. Sells indicated all he did is sell dirt to a contractor. He contacted the contractor to stop the emission of dust but he cannot make them change their way of business. After APCP staff explained the process, he asked the program to refer the case to the Missouri Air Conservation Commission.

In light of failure to resolve the violations, the APCP is requesting authority to refer the case to the AGO. I recommend approval of this action.

LTM:cjd

c: Jan Chronister, Southeast Regional Office

## MEMORANDUM

DATE:

TO: Missouri Air Conservation Commission

THROUGH: Daniel R. Schuette, Interim Division Director  
Air and Land Protection Division

FROM: Leanne Tippet Mosby, Director  
Air Pollution Control Program

SUBJECT: Attorney General's Office Referral Request – Millennium Wrecking, Inc.

On November 5, 2003, a representative of the Missouri Department of Natural Resources' Southeast Regional Office (SERO) conducted transite sampling at demolition sites located at #6 and #302 Manor Street in Ellington, Missouri. The materials sampled at both residential demolition sites did contain asbestos. Failing to inspect for asbestos containing material prior to demolition activities is a violation of Missouri State Rule 10 CSR 10-6.080, "*Emission Standards for Hazardous Air Pollutants*," which adopts by reference 40 CFR Part 61, Subpart M – "*National Emission Standard for Asbestos*." Subsequently, the SERO issued Notice of Violation (NOV) #3068SE to Millennium Wrecking to document this violation.

On December 11, 2003, the Air Pollution Control Program (APCP) issued NOV #123SW1 to Millennium Wrecking for failing to provide notification to the APCP ten working days prior to the start of the asbestos abatement project and for failing to register as an asbestos abatement contractor prior to an asbestos abatement project.

On March 5, 2004, the APCP sent a \$8,000 settlement offer letter via certified mail to Millennium Wrecking. The letter requested Millennium Wrecking contact the department by March 26, 2004, to discuss a resolution.

On April 21, 2004, the APCP contacted Millennium Wrecking and left a message for Mr. Brian Wellen of Millennium Wrecking. The receptionist stated Mr. Wellen would be in later that afternoon. However, the program did not receive a response.

On June 4, 2004, the APCP contacted Millennium Wrecking. The receptionist stated she would have Mr. Wellen return the call on Monday June 7, 2004. Once again the program did not receive a response.

On June 17, 2004, the APCP contacted Millennium Wrecking. The receptionist stated she would pass along the phone message.



On June 29, 2004 Mr. Wellen called the APCP regarding the settlement offer letter. Mr. Wellen stated he contacted the Department of Natural Resources when the houses were accidentally demolished and was instructed how to properly finish the project.<sup>1</sup> Mr. Wellen stated these methods were then used and thought the issue was resolved until the penalty letter came via certified mail. Mr. Wellen indicated he wanted to speak with his supervisor and would contact the APCP with a proposal letter.

On July 29, 2004, the APCP contacted Millennium Wrecking. The receptionist took the message and said Mr. Wellen would return the next day. Once again the program did not receive a response.

On August 3, 2004, the APCP contacted Millennium Wrecking. The receptionist stated Mr. Wellen was in Tennessee on a project but he checks his messages daily and would return the call. Once again the program did not receive a response.

On August 23, 2004, the APCP contacted Millennium Wrecking but no one answered the phone.

On August 26, 2004, the APCP contacted Millennium Wrecking. The receptionist stated Mr. Wellen was out of town on a project and would deliver the message to him when he returned. Once again the program did not receive a response.

On December 8, 2004, the APCP contacted Mr. Wellen of Millennium Wrecking and stated the case needed to be settled or the matter would be referred to the Attorney General's Office. Mr. Wellen stated he would look at everything, speak with the owner and provide a response back to the APCP later that day. A response has not been received.

As of this date, the APCP and Mr. Wellen have not been able to reach an agreeable settlement to resolve the above NOV. The APCP is requesting authorization to refer this matter to the Attorney General's Office for appropriate legal action. I recommend your approval of this action.

LTM:svd

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<sup>1</sup> Millennium Wrecking had partially demolished two residential houses when the SERO inspector arrived on site. Millennium contacted the APCP and was instructed how to properly finish the project and to properly dispose of the material as asbestos containing. However, this action did not eliminate liability for the violations that already occurred.

## **Reference Links**

[Air Pollution Control Program](#)

[Department of Natural Resources](#)

[State of Missouri](#)

[Air Issues](#)

[Asbestos](#)

[DNR Calendar of Events](#)

[News Releases](#)

## **Commissions & Workgroups**

[Air Program Advisory Forum](#)

[Missouri Air Conservation Commission \(MACC\)](#)

[Missouri Air Conservation Commission \(MACC\) Agenda](#)

## **Rules**

[Rules in Development](#)

[Code of State Regulations](#)

[Missouri Register](#)

[Missouri State Implementation Plan \(SIP\) Summaries and Federally Approved Regulations](#)

## **Data Systems**

[Missouri's Air Quality Data](#)

[Missouri Emissions Inventory System \(MoEIS\) Online](#)

[Missouri Emissions Inventory System \(MoEIS\) Updates](#)

## **Permits**

[Draft Permits on Public Notice, Response to Comments and Final Permits](#)

[Summary of Report of Permits Received and Completed](#)

[Permit Actions](#)



# MISSOURI DEPARTMENT OF NATURAL RESOURCES

## DEPARTMENTAL OFFICES

### Kansas City Area

- Kansas City Urban Outreach Office**  
4750 Troost Avenue  
Kansas City, MO 64110  
(816) 759-7313  
FAX (816) 759-7333
- Kansas City Regional Office**  
500 NE Colbern Rd  
Lee's Summit, MO 64086-4710  
(816) 622-7000  
FAX: (816) 622-7044
- Department of Energy  
Kansas City Plant / DNR - AIP**  
2000 E. Bannister Rd.  
P.O. Box 410202  
Kansas City, MO 64141-0202  
(816) 997-5790  
FAX: (816) 997-3261

### Northeast Area

- Northeast Regional Office**  
1709 Prospect Dr.  
Macon, MO 63552-2602  
(660) 385-8000  
FAX: (660) 385-8090
- Mississippi River Project Office**  
Wakonda State Park  
Rt 1 Box 242  
LaGrange, MO 63448  
(573) 655-4178

### St. Louis Area

- St. Louis Urban Outreach Office**  
4030 Chouteau 6th Floor  
St. Louis, MO 63110  
(314) 340-5900  
FAX (314) 340-5904
- St. Louis Regional Office**  
7545 S. Lindbergh, Ste 210  
St. Louis, MO 63125  
(314) 416-2960  
FAX: (314) 416-2970
- Franklin County Satellite Office**  
Meramec State Park  
Hwy 185 S.  
Sullivan, MO 63080  
(573) 860-4308
- Hazardous Waste Field Office**  
917 N. Hwy 67, Ste. 104  
Florissant, MO 63031  
(314) 877-3250 or 3251  
FAX: (314) 877-3254
- Jefferson County Satellite Office**  
Eastern District Parks Office  
Hwy 61  
Festus, MO 63028  
(636) 931-5200  
FAX (636) 931-5204

### St. Louis Area (continued)

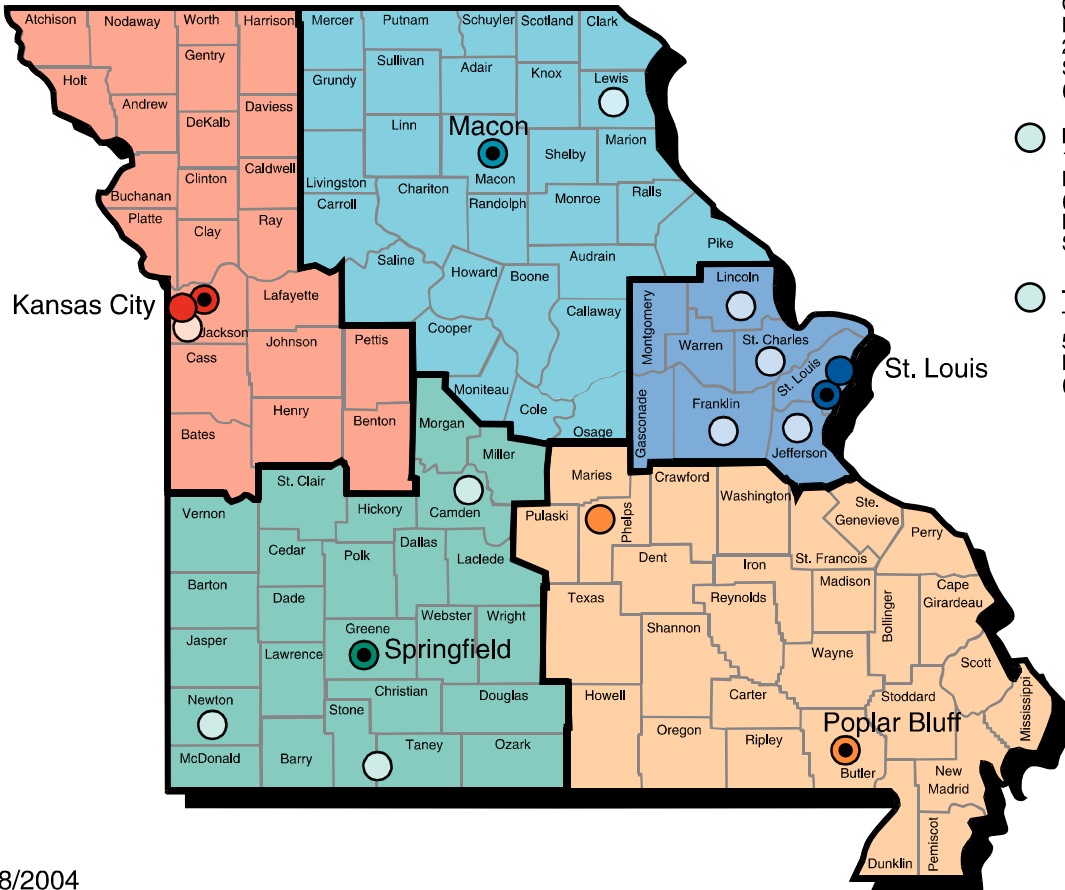
- Lincoln County Satellite Office**  
Cuivre River State Park  
678 State Rt. 147  
Troy, MO 63379  
(636) 528-4779

### Southeast Area

- Southeast Regional Office**  
2155 North Westwood Boulevard  
Poplar Bluff, MO 63901  
(573) 840-9750  
FAX: (573) 840-9754
- Geological Survey and Resource  
Assessment Division**  
111 Fairgrounds Rd.  
P.O. Box 250  
Rolla, MO 65402  
(573) 368-2100  
FAX: (573) 368-2111

### Southwest Area

- Southwest Regional Office**  
2040 W. Woodland  
Springfield, MO 65807-5912  
(417) 891-4300  
FAX: (417) 891-4399
- Lake of the Ozarks Satellite Office**  
Camden County, 5568 A Hwy 54  
Osage Beach, MO 65065  
Mailing address:  
2040 W. Woodland  
Springfield, MO 65807-5912  
(573) 348-2442
- Neosho / Joplin Area Satellite Office**  
1900 S. 71 Highway  
Neosho, MO 64850  
(417) 455-5155  
Mailing address: 2040 W. Woodland  
Springfield, MO 65807-5912
- Taney / Stone County Satellite Office**  
Table Rock State Park  
5272 State Hwy 165  
Branson, MO 65616  
(417) 337-9732



For more information on  
the department, visit  
[www.dnr.mo.gov](http://www.dnr.mo.gov)  
call 1-800-361-4827  
or write to  
P.O. Box 176  
Jefferson City, MO 65102-0176.